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The Mindszenty Trial

GABRIEL PRESSMAN

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A YEAR ago today, I saw brought to trial a brave man who acted like a coward. I saw a People's Court from which the people were barred. I saw an ex-Nazi sitting as a Communist chief judge. I saw a defense attorney out-prosecute a prosecutor.

On February 4, 1949, second day of the trial, I was admitted to a dimly lit courtroom in Budapest, where Joseph Cardinal Mindszenty and six co-defendants sat before the bar of Communist justice. Edward Korry of the United Press and I were the only American correspondents representing American publications admitted to the trial.

There was one catch: I could not choose an interpreter, I was told by Ivan Boldizar, pudgy, nervous-eyed

Government press chief. The Government would supply a bright, young Communist to translate for me.

The courtroom was two flights up—with six checkpoints of sub-machine gunners from the door of the dirty, red-brick courthouse on Marko St. to the door of the trial room itself.

It was a small, dark room. Not much light pierced the huge windows. On the dais sat the People's Court President and four associate judges. On the first bench beneath were the seven defendants, charged with a Royalist conspiracy to overthrow the Government.

Their faces were drawn. Their attitudes ranged from indifference to resignation. Alongside each sat a militiaman. Throughout the courtroom, militiamen stood or sat among the

* 125 Barclay St., New York 15, N. Y., February 4, 1950.

carefully screened spectators. Only seven relatives of defendants were present.

CHIEF JUDGE WAS NAZI

Through an American's eyes, it was a trial of paradoxes. There was Vilmos Olti, before and during the war one of Hungary's foremost Nazis, now playing Communist chief judge.

Olti fired an endless stream of questions at the defendants, methodically building up the case against them with "yes" and "no" answers. He allowed seven prosecution witnesses, no defense witnesses. As he carried the case through in a lightening three days, the hard-faced prosecutor-juror seldom looked up from the papers he read.

The "trial" seemed a little academic. The defendants had confessed everything days before at the headquarters of the dread secret police, 60 Andrássy St. And the Government had the confessions bound neatly into a "yellow book" for the convenience of Red propagandists.

The defendants vied constantly to confess. Once it was even too much for the court. The Cardinal tried to read a repudiation of his pre-arrest warning against any future "confession," but Olti silenced him: "You don't want to read that now." So the Cardinal sat down and read it when directed.

Young Andreas Zakar, the Cardi-

nal's secretary, was once his stubborn, good right arm. Now he stood, weak and timid, most pathetically trying to follow wherever Olti led. And the judge coached him benignly, like a teacher with a backward child.

Zakar used the word "democratic" in the Western sense. "Liberal, bourgeois democratic or people's democratic?" Olti demanded.

Zakar (searchingly): "Er . . . liberal."

Olti (with fatherly severity): "That means against progress."

Zakar: "Yes, sir."

The Cardinal, an excellent orator before his arrest, spoke monotonously, reading from prepared papers. Under prodding from the raspy-voiced director, the Cardinal said: "I'm very sorry" about everything—the book he had written, letters, money manipulations.

The script called for a Mindszenty of repudiation, confession and apology. And this, the Communists wanted the world to believe, was the same man who in a last interview said staunchly: "I will never take back anything I have said against the Communist government. . . . Hungary has degenerated into a gigantic chamber of horrors, a den of robbers and thieves."

Crudest of the crudities was the attitude of the so-called defense attorneys. They spent most of the trial twiddling their mustaches or gazing

into space. I didn't see them take a single note, nor consult each other once.

Kalman Kiczko, a Communist of thirty years' standing, "defended" the Cardinal. Joseph Groh, prominent Catholic lawyer, had been jailed for offering to serve.

Kiczko pleaded well . . . for Kiczko. Most of his final speech told how much he, Kiczko, loved the People's Democracy.

Then, removing his spectacles, he denounced Western newspapers: "The foreign press has written numerous calumnies against Hungary." He disputed that the trial was unfair: "Nobody either at home or abroad can accuse us of restricting freedom." He cringingly thanked the prosecution for bringing up the charges against his client. And, when he sat down, even Olti smiled.

A year has passed and the world still wonders what made the defendants act as they did. Was the Cardinal tortured, drugged or hypnotized?

Pro-Communist correspondents reported the Cardinal seemed perfectly normal in every respect. It was hard to agree when you saw a man weak and cowardly whose actions for four years had spoken strength and courage.

Was he in his right mind when he offered to resign if the charges against him were dropped? Only the Pope could accept such a resignation. Before his arrest, he could deliver a perfect sermon from a few notes. At the trial he forgot frequently and—the interpreters did not hide it—had to be prodded by the court.

TORTURED BY SECRET POLICE

The key to what happened is, of course, the thirty-eight days the Cardinal spent with the secret police before the trial. I did not speak to the Cardinal—the Government forbade it—but I have spoken to others educated to confess at 60 Andrassy St. The Communists have a standard curriculum: questioning for days on end under bright lights, standing with arms overhead until faint, repeated blows with blunt instruments on the kidney, electric shock treatments.

It is possible that all the standard methods and perhaps more were used on the defendants. Perhaps Zakar was tortured to arouse the Cardinal's pity. Zakar's white face and trembling impatience to please marked him a likely graduate of the torture chamber.

Not all the clues were outside the

court. In the Cardinal's final speech, he spoke with some feeling for the first time:

I stand here with half a century of basic principles . . . principles that guide us as railway tracks guide trains. . . . I was not and am not an enemy of the Hungarian people . . . worker or peasant.

Perhaps the Cardinal here revealed his true thoughts—that he believed as he always did, that he still loved the people but not the Communist Government.

CENSORSHIP AND INTIMIDATION

Significantly, the Hungarian press and radio did not carry the statement. For weeks before the trial, these Government-controlled media trumpeted the Cardinal's guilt. "A pitiable worm, a scared scoundrel, a blood-thirsty beast of prey," they called him.

Meanwhile, the Government had nightly press briefings to tell correspondents what to write. Boldizar, the press czar, said: "Tell your readers that the Cardinal is not a brave hero of freedom but a weakling and a coward." The second night Mr. Korry and I refused to sign a Communist-sponsored resolution, signed by the others, affirming there was no censorship and translations were accurate.

A Hungarian journalist secretly applauded our stand: "There are two kinds of censorship: one where the censor's pencil scratches out the

words, the other where the fear in your heart scratches them out." He told me how every Hungarian-speaking person in that courtroom had been intimidated.

After my refusal to sign, the Government pretended I did not exist, withdrew even its slanted help. I had to scrape together at least the official version of what was happening—and that was damning enough.

Time will never dim that last, sad scene of February 8. The defendants stood for more than an hour while Olti issued an anti-Western political tirade and their sentences.

The Cardinal's head was slightly bowed, his hands clasped before him. As he was sentenced to life imprisonment, his cheek twitched. Princess Esterhazy knelt in prayer. A Government camera's flashbulb exploded.

There was a weird moment when Laszlo Toth, almost deaf Catholic editor, stepped forward to hear Olti shout his fate—ten years.

Then it was over. The heavily guarded defendants filed out. In the corridor I stopped gray-haired Hildegard Zakar, the defendant's sister. Glancing nervously at detectives, her eyes moist, she said in French:

"My brother is a good boy. He has always served God. If God wills it, then this must be."

The reaction of the people in the streets and coffee houses was bitter. Through a Hungarian-speaking American, they told me: "They were

afraid to give him the death sentence because they know his hold on the people is too great."

The Cardinal, says the Hungarian underground, languishes today in Gyujtofoghaz jail, ten miles north of Budapest.

Whatever happens, Cardinal Mindszenty's place in history is assured. A Hungarian student friend expressed it well that last night in Budapest as we strolled along the banks of the Danube. I had just

come from a final press conference at which Boldizar said: "The trial is over, but the trial of you correspondents has just begun. You must tell the world the truth about this traitor."

My friend looked up at the sky. "You know, for once Boldizar is right," he said. "This was more than the trial of Cardinal Mindszenty. In the court of world public opinion, a Cardinal has convicted his judges and Communism stands condemned."



Fighting Crime

"This is a problem that, in one degree or another, affects every community in the country, and every level of government. Our rural areas as well as our cities are involved in this.

"It is important, therefore, that we work together in combating organized crime in all its forms. We must use our courts and our law-enforcement agencies and the moral forces of our people to put down organized crime wherever it appears.

"At the same time we must aid and encourage gentler forces to do their work of prevention and cure. These forces include education, religion, and home training, family and child guidance, and wholesome recreation.

"The most important business in this Nation—or any nation, for that matter—is raising and training children. If those children have the proper environment at home and educationally, very, very few of them ever turn out wrong. I don't think we put enough stress on the necessity of implanting in the child's mind the moral code under which we live.

"The fundamental basis of this Nation's law was given to Moses on the Mount. The fundamental basis of our Bill of Rights comes from the teachings which we get from Exodus and St. Matthew, from Isaiah and St. Paul. I don't think we emphasize that enough these days.

"If we don't have the proper fundamental moral background, we will finally wind up with a totalitarian government which does not believe in rights for anybody except the state."—*President Truman to the Law Enforcement Officers' Conference, Washington, D. C., Feb. 14, 1950.*

Answer to Communism

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*An address delivered before the Knights of Columbus, Manila, P. I.,
November 30, 1949.*

THE world today is engaged in a struggle which threatens to embrace every land, every nation, every individual. Atheistic Communism, in a violent and spectacular thrust, has pushed out from the frontiers of the land that was its breeding place. Communists, toughened for the fight, disciplined by the iron hand of their masters, have successfully broken down any opposition put in their way. Look at their conquests. See the large sections of the world which have fallen under their domination. Is it any wonder that today men tremble at their power? Their latest conquest is China, our neighbor. Are we going to be next?

Why have the Communists succeeded? What is the secret that has caused vast lands, innumerable men to fall into their grasping hands? Perhaps it is because their philosophy is sound and realistic? But Communism, with its foundations in materialism, considers man just a higher type of animal, just a living mechanism whose noblest part is his stomach. Perhaps Communists have the answer to the basic human aspirations? But to the Communists man has no im-

mortal soul, no divine destiny, no heart-craving for God. To them man is just a hungry animal, but man, either yesterday, today or ever, can never be satisfied by rice or bread alone. Perhaps the Communists have the practical solution to the world's most crucial problems? Wherever Communism has been tried, it has brought the worst kind of terror and ruthless persecution. In a world crying for peace, its fruit is havoc and disorder.

What motivates these Communists in their world conquest? What are the ideals that have hypnotized so many hundreds of thousands and have lead them captive to the cause of Communism? A man's ideals can be judged by his actions. Judge for yourselves from the Communists' campaigns of hate, lies and slander. Judge by their method of using every possible means, no matter how immoral or inhuman, to attain their end.

But why have the Communists succeeded? The Communists, my friends, have succeeded in such a spectacular way, not because of any inherent goodness in Communism,

but because the social system which they are determined to fight, destroy and to supplant, built as it is upon a foundation as false as Communism itself, is incapable of its own defense.

Capitalism, the so-called enemy of Communism, finds its very existence threatened. Resulting as it has in the gathering of the world's wealth into the hands of the few, it has in fact gone contrary to the laws of God and of nature. It finds itself powerless before the exploited masses who have been given a powerful, though false, voice by the proclaimed purposes of Atheistic Communism. Communism is based upon materialism, but long before Communism ever appeared as organized materialism seeking to dominate the world by force, Liberal Capitalism had prepared the way with a materialism of its own.

In order not to be misunderstood, I want to make clear that when I mention "Liberal Capitalism" I am using the term in its classical and historical meaning, as used in the Papal Encyclicals, without reference to any political party or system in any particular country. The word "liberal" has today a different meaning in different countries; the same applies to the term "capitalistic system." There are today liberal parties and so-called capitalistic systems which are honestly concerned about social reforms in favor of the lower classes.

By liberal capitalism I mean that

economic and political doctrine which, since the beginning of the mechanical age, proclaimed a complete separation between religion and morality on one side, and capital and labor on the other. Although the number of the avowed followers of this extreme and reactionary doctrine may be small, the number of those who practise its tenets is still exceedingly high, and, I am sorry to say, quite a few Catholics are to be found among them. No matter what their religion or personal philosophy may be, they are acting according to a principle which is fundamentally materialistic.

SPIRIT OF CAPITALISM

To understand this we must go back and see the spirit which, in point of fact, animated the capitalism which spread throughout the world during the 19th century. That spirit was the spirit of 19th century liberalism. Leo XIII describes it as follows:

What Naturalists and Rationalists aim at in philosophy, that the supporters of Liberalism, carrying out the principles laid down by Naturalism, are attempting in the domain of morality and politics. The fundamental doctrine of Rationalism is the supremacy of the human reason, which, refusing due submission to the divine and eternal reason, proclaims its own independence, and constitutes itself the supreme principle and source and judge of truth. Hence these followers of Liberalism deny the existence of any divine authority to which

obedience is due, and proclaim that every man is the law to himself; from which arises that ethical system which they style independent morality, and which, under the guise of liberty, exonerates man from any obedience to the commands of God, and substitutes a boundless license. The end of all this is not difficult to foresee, especially when society is in question.

And Pius XI goes on to describe the process of corruption, set in motion by the spirit of rationalism and liberalism, when these false principles were put into force in the world of business:

Thus it came to pass that many, much more than ever before, were solely concerned with increasing their wealth by any means whatsoever, and that in seeking their own selfish interests before anything else they had no conscience about committing even the gravest crimes against others. Those first entering upon this broad way that leads to destruction easily found numerous imitators of their iniquity by the example of their manifest success, by their insolent display of wealth, by their ridiculing the conscience of others, who, as they said, were troubled by silly scruples. (*Quadragesimo Anno*)

The silly scruples of the businessmen of the day were silenced by the egoism that clamored for self glorification and the power that would come through riches. Too many, all too many, grasped eagerly at the tenets of liberalism. The rich, the powerful, those responsible for ruling the economy, were not afraid to crucify the workingman on the cross of their greedy ambitions. The weak

and the poor, those who had to serve the powerful in order to live, had little chance to think of God and less time to serve Him. Their whole lives were taken up with seeking their meager daily bread, their hearts filled with fear of not finding it, and with the bitterness of not getting enough of it. Grim poverty, with all its inability to provide for the wife and children a man loved, a hatred of those who oppressed him, and a deep yearning to be free from that oppression, helped to keep the workingman chained to this earth.

LIBERALISM PAVES THE WAY FOR COMMUNISM

All that Communism had to do was to complete the materialistic thesis of liberal capitalism, embitter the poor just a little more, offer a neatly painted rainbow as heaven on earth, and prod the worker to overthrow his masters. The result was that the arrogant and satisfied materialism of liberal capitalism could not and did not resist the impact of the upsurging and alluring materialism of the Communists.

Pius XI clearly showed how Liberalism thus paved the way for Communism, in his words:

If we would explain the blind acceptance of Communism by so many thousands of workmen, we must remember that the way had been already prepared for it by the religious and moral destitution in which wage-earners had been left by liberal economics. Even on Sun-

days and holidays, labor shifts were given no time to attend to their essential religious duties. No one thought of building churches within convenient distance of factories, nor of facilitating the work of the priest. On the contrary, laicism was actively and persistently promoted, with the result that we are now reaping the fruits of the errors so often denounced by Our Predecessors and by Ourselves. It can surprise no one that the Communistic fallacy should be spreading in a world already to a large extent de-Christianized. (*Divini Redemptoris*)

This, my friends, explains why from the Adriatic to the Bering Strait, from the Elbe to the Yellow River, Communism has created a powerful and menacing empire which will not be satisfied until every corner of this globe is under its despotic domination.

And what is the outlook for the future? Can we expect *laissez-faire*, can we expect tottering liberal capitalism to halt the march of alarmingly triumphant Communism? Will international conferences, dragging for days and months, one year after another,—will the race of armaments bring the solution and an end to this agonizing conflict? Can it be that we must wait for another Armageddon, which, by the extensive use of atomic weapons, will wipe out entire peoples and countries, and thus have the dove of peace, olive branch in her mouth, fly in loneliness over the remains of a scattered and terror-stricken humanity? Or must we wait

powerless while the advancing flood of Communism engulfs and submerges more countries and continents? Is there, then, no way to save Christian civilization?

THE CHURCH'S ANSWER

In 1891, while the theoretical aspects of the social questions were hotly debated, an old man with a weak body, a great soul and a still greater heart raised his voice. He was practically a prisoner in his old historical palace on a small hill overlooking the place where, eighteen centuries before, his predecessor, a fisherman, for love of God gave his life on an inverted cross. That old man had no army, no guns to enforce his edict. The man—Leo XIII; the message—*Rerum Novarum*.

It came as a shock to an agnostic and indifferent world which thought it had relegated religion to the walls of churches and monasteries; to a world which thought the Pope had no business to interfere in matters judged purely material and temporal. Liberal capitalists were evidently disturbed by this document, which was intellectually too powerful and logically too strong to be ignored. They branded it a futile effort of the old church to regain influence and prestige among the lower classes. Socialists and Communists saw the danger to their cause from an utterance which plainly told the workingman where his true salvation was, a docu-

ment which exposed the motives and the traps prepared for him by the materialistic Communists and capitalists alike. A small and courageous group of Catholic leaders in several European countries, already deeply interested in the social question, welcomed the papal document as light and guidance to solve the problem. From that day to this, the voice of the Papacy has not been silent, but it has, with Pius XI and with Pius XII, gloriously reigning, become stronger and clearer. The number of Catholics who learned and put in practice the papal teaching became legion.

CHAMPION OF THE POOR

The Catholic Church fought to free the slave in the declining Roman Empire. In the Middle Ages, she fought to correct the abuses of Feudalism. She made an earnest effort to moderate the harshness of monarchical despotism during the Renaissance. When, in the day of the Industrial Revolution, men driven by greed exploited and oppressed their fellow-men, Christ, the lover of the poor, spoke through Leo XIII. As in the past she was found defending the weak and the downtrodden, today when the atom threatens to destroy mankind, the Catholic Church stands again in the front lines as the champion of the poor against Atheistic Communism and liberalistic capitalism. The struggle has assumed ti-

anic proportions. It is a struggle to the finish. Even honest and fair-minded non-Catholics are today turning their eyes to the small hill on the bank of the Tiber, expecting from there the answer to the agonizing question of today.

Not long ago, a non-Christian prime minister said to me: "Monsignor, I count a lot on the Catholics in the fight against Communism in my country. The Catholic Church alone has a doctrine, a program and an organization which can effectively oppose Communism." But why are non-Catholics and even non-Christians looking today to the Catholic Church as the greatest spiritual and moral force which can save the world? Because all purely human efforts thus far have failed to solve the problem. The struggle, more or less violent, more or less conspicuous, is going on between capital and labor practically everywhere, except in the Soviet Union and in countries under the Communist regime, where the workingman is a slave of the state and has no appeal or redress against his tyrannical master.

The reason why no practical solution has been worked out as yet is because relations between capital and labor have been lacking in the essential, vital, indispensable element without which no human relation can succeed. This element is charity, and charity can only spring from a deep religious sentiment, from faith in

God and love of God. Charity is the inseparable love of God and of fellowmen. As St. John the Apostle says: "If a man boasts of loving God, while he hates his own brother, he is a liar. He has seen his brother, and has no love for him. What love can he have for the God he has never seen? No, this is the divine command that has been given us; the man who loves God must be one who loves his brother as well." (St. John 1, IV, 20-21)

FRATERNAL PARTNERSHIP

But there is no charity without justice. What is the value of a gratuitous donation, when this donation comes from the unfair exploitation of a workingman? How can God accept and reward our work of charity, when we deny the just reward to the man who deserves it? Yet, even justice presupposes charity. These two must perfect each other. These two must be intertwined. If employers practice justice only when ordered to do so by the Court, or through fear of strike or loss of profit, that kind of justice will never create a happy relationship between employers or employees. The inspiring ideal and plain duty of a Catholic businessman and employer is to create with the men working with and for him that relationship which is manifest in Christian love, mutual understanding and fraternal partnership. Like the employer and the

businessman, the laborer is a human being made to the image and likeness of God, with a soul and a heart, with a profound consciousness of his dignity. It is his family that motivates and moderates his actions. Consider and treat the workingman as you would treat Christ; love him as a brother. He will respect and love you. He will give you loyal and faithful cooperation.

But if you consider him only as a necessary evil, needed for production and profit, as a kind of animal force required to integrate the action of natural energies or of mechanical instruments, the workingman will hate you. He will consider you his natural and bitter enemy. He will revolt against you.

How can it be otherwise, when this man, who is spending his daily life partly in hard physical work, and partly in trying to recuperate his energy for more work on the following day, does not get enough to satisfy his hunger, to feed, clothe and house his wife and children and to get some legitimate pleasure out of life? How can you expect him to respect and love his employer, when the employer, no matter how little he works, can indulge in a life of luxury, can give his children all they need and a great lot more, and comfortable security for the future, while he, the workingman, has to depend from day to day on his meager salary, and is haunted by the permanent fear that

if he loses his job, his health or his life, his dear ones must remain in worse misery and starvation?

It is easy to say that the workingmen must do their work willingly and conscientiously, that they must not hinder production or the economic life of the country by their excessive demands, or by strikes. How can we ask the workingman to be satisfied with less, to tighten his belt, and to sacrifice the health and welfare of his wife and children, in order to save a system which is not concerned about his dignity and rights or the well-being of his family? How can we ask him to risk everything in order to save the world from Communism, when Communism promises him the food, the clothing, the house, the decent family living which a liberal capitalism has denied him? What is the use of telling the laborer that the promises of Communism are lies, that under a Communistic regime he will lose his freedom, when today he is not even free to complain to his boss or ask his employer to give what is due him for fear of losing his job?

Now let us bring the problem nearer home. For us in the Far East, for us in the Philippines, the question is: Is our social order a Christian one, strong enough to resist the assault of Communism? Or rather, is it materialistic and therefore ripe for the collapse sadly experienced by other countries?

Let us answer this question hon-

estly without hiding our heads in the sand, like an ostrich in the face of danger. Too many workingmen (and by workingmen I do not mean only those doing manual work, but all who must live on their daily work) get wholly inadequate salaries to meet the needs of even the thriftiest family.

STANDARD OF JUDGMENT

The only safe standard against which to judge the conditions of the workers is the standard intended by God when He richly endowed the earth with the things men need for proper family life. The present reigning Pontiff, Pius XII, has stated this standard: "The fundamental point of the social question is this, that the goods created by God for all men should in the same way reach all, justice guiding and charity helping." (*Sertum Laetitiae*)

And Pius XI reminds us that: "In the first place the wage paid to the workingman must be sufficient for the support of himself and his family." (*Quadragesimo Anno*).

In his letter on Atheistic Communism, Pius XI further explains his meaning:

Social Justice cannot be said to have been satisfied as long as workingmen are denied a salary that will enable them to secure proper sustenance for themselves and for their families; as long as they are denied the opportunity of acquiring a modest fortune and forestalling the plague of universal pauperism; as long as they cannot make suit-

able provision through public or private insurance for old age, for periods of illness and unemployment. In a word, to repeat what has been said in our encyclical *Quadragesimo Anno*: "Then only will economic and social order be soundly established and attain its ends, when it offers, to all and to each, all those goods which the wealth and the resources of nature, technical science and the corporate organization of social affairs can give. These goods should be sufficient to supply all necessities and reasonable comfort, and to uplift men to that higher standard of life which, provided it be used with prudence, is not only not a hindrance to but a singular help to virtue."

With these standards set down by the Holy Fathers clearly in our minds, let us look with honesty at the actual state of affairs.

LOW INCOME

First let us look at the money the laborer actually receives in compensation for his work. In this modern city of Manila the average maximum wage, and we are being very generous in putting it so high, is 7.70 pesos per day for skilled workers. For the unskilled the equally generous average maximum is 4.50 pesos. Once we go out from this city and take the averages for the entire nation we have such figures as: for skilled workers 3.34 pesos, and for unskilled 1.89 pesos.

Leave the cities and the municipalities and the picture becomes worse. Agricultural laborers average much less than two pesos daily

and in many places they make only slightly over one peso per day, and this for long hard hours in the fields they can never hope to own.

Two facts must be kept in mind regarding the above figures:

1. In practice very few by percentage are rated as skilled workers.
2. Many small concerns, which when taken together account for a large number of wage-earners have, through fear or shame, never reported their wages. And those wages are actually shockingly small. In arriving at the above stated average maximums these low wages were not taken into consideration.

But even using these too high figures, the picture of the workers' life is black.

Let us pass by in silence the hovels of Tondo, Binondo, San Nicolas, the North Harbor section, and all the squalid slums that dot this city like a plague of smallpox. Let us go to a sub-division, where the stench of backed-up sewers and uncollected garbage will not so sickeningly affect our refined senses. Let us look at an actual case. A family of six live in a single room. (And that in itself is hardly conducive to health of body and all too often is a damnable source of immorality for impressionable children.) This is all they can claim as their own. They share

a kitchen and a toilet with three other families. Their dining room is a common sala, where the four families gather to eat the rice and fish they are forced too live upon. And for the privilege of dwelling in such a fashion they must pay 50 pesos a month. Fifty pesos a month for this! I leave it to your own good-will to search out and see the dwellings which actual low wages force upon the families of so many of your fellow-countrymen.

MOTHERS FORCED TO WORK

Surveys have shown that from 35 per cent to 50 per cent of the family income must be paid out for food enough merely to fill stomachs, hardly enough to give sufficient nourishment. Go to any school and see there the charts which dieticians formulate and which proclaim the necessary diet for a man to exist in some state of health. Then be generous; take fifty per cent of the average salary as stated above and go to market. Two months ago today, in the Blumentritt Market, the cheapest rice obtainable was 1.20 pesos per ganta. Eggs, so highly recommended by the dietician, were 12 pesos per hundred. Carabao meat with bones was 1 peso per kilo. Fourth class chicken was 2 pesos per kilo. The cheapest bananas were 2 pesos per hundred. Look at the money that lies in your hand. Count it and see, what can it buy for the

average family of five persons?

With such prices for wholly inadequate dwellings, for food which lacks all the necessary elements of a proper diet, the salary of the father is not sufficient to take care of his family. The result is that which has been roundly condemned by the Holy Father and by your own Hierarchy. Mothers, they who should be the queens of the home, they who should spend their days instilling virtue and loyalty into their children, are forced to go out to work in order to keep their children alive. As a result you have a whole horde of children, without training, without proper schooling, without proper supervision. Do you wonder that Communism can so easily conquer, can so easily gather into its folds even this Catholic country?

All this is bad enough when you have a people who are all of strong and sturdy constitution. But the statistics, gathered by your health departments, show that the incidence of tuberculosis among the wage-earners is terrifyingly high. And this, according to these same authorities, is due to a low nutritional diet. Can you not see that the refusal of employers to follow the doctrine of the Church in Social Justice is raising up a nation of weaklings, weaklings who in their despair will turn to the Communists in a vain attempt to draw strength from their siren promises?

And when any incapacitating sick-

ness comes and doctors must be paid and medicine bought, where can the poor wage-earner get the necessary money? Usury is a great crime, usury cries to heaven for vengeance. But actual figures from recent studies show that interest rates are from ten to forty per cent *per month*. Where is Christian Charity when one man will seize upon the poverty and helplessness of his brother and grow rich out of his needs?

RIGHT TO ORGANIZE

And when men listen to the teaching voice of their Bishops and understand that they: "In fact, can have no effective voice as long as they are unorganized; to protect their rights they must be free to bargain collectively through their own chosen representatives," what happens?

All too often men, even some who consider themselves Catholics, do not hesitate to use every means to discourage unionism. And when they fail to prevent organization, they try to control that organization or to obstruct its legitimate efforts by every legal subterfuge and sometimes by threats and intimidation. What is still worse, they do not hesitate to connive with unscrupulous labor leaders to keep the laborers in bondage. You must know that it is morally wrong to force poor men to go through expensive and time-consuming court actions to obtain that which is just and which the employer should

give them freely as one Christian fulfills an obligation to another and not as one giving grudgingly or making a condescending donation.

The Church has not hesitated to make clear that the worker has a moral right so to organize and to bargain collectively through representatives freely chosen by himself. He who knowingly interferes with this right either directly or by various artifices of favoritism or discrimination, which are meant to discourage unionism, does serious moral wrong. He will answer to God for this unfair restriction of human rights.

The picture I have painted is not a beautiful one; it is hardly one of which we can be proud. But it is a picture painted with facts, unembellished with wishful thinking. It is an honest picture. And with this picture before me and with the charity of Christ in my heart, I exhort you.

To the wealthy people, to businessmen, to employers in general, I say: Do not be blind, look into the stark reality; if you insist on exploiting God's poor for the fattest profit you can get today, you are going to lose everything tomorrow, your capital, your business, your profits, probably your very life. In the storm that will break around you, you will sacrifice your family and the future of your children. These children of yours, if they will not be wiped out by the whirlwind of social upheaval, will be

the prize and the spoils of a regime of tyranny and terror; they will suffer more than the poor, miserable children are suffering today. This will be the vengeance of God for your egoism and greed. Listen to these words:

Come, you men of riches, bemoan yourselves and cry aloud over the miseries that are to overtake you. Corruption has fallen on your riches. All the fine clothes are left moth-eaten, and the gold and silver have long lain rusting. That rust will bear witness against you, will bite into your flesh like flame. These are the last days given you, and you have spent them in heaping up a store of retribution. You have kept back the pay of the workmen who reaped your lands, and it is there to cry against you; the Lord of hosts has listened to their complaints. You have feasted here on earth, you have comforted your hearts with luxuries on this day that dooms you to slaughter.

These, my friends, are not words of mine, nor of a modern subversive writer; they are the inspired words of the Apostle, St. James, and they are the words of God, of which Christ said: "Though heaven and earth should pass away, my words will stand." (Matt. 24, 25)

OBJECTIONS AND ANSWERS

I can already forecast the reaction to these words of mine. Some will accuse me of being an enemy of the rich, of stirring up class hatred and the resentment of the workers.

As a minister of God, the representative of the Vicar of Christ to

this country, I am the enemy of no man. I hate no one. I love the rich as well as the poor, and I love those who may be against my Church and may despise and detest me for what I am and for what I stand for. But above all, my heart goes out to those who are the victims of the greed of capitalism and who have been deceived by the empty promises of Communism. They are created by the same God, redeemed by the Precious Blood of the Son of God. But besides this supernatural motive, I feel I am doing my sacred duty toward the people of wealth and power, when I try to open their eyes to the stark, hard, cold reality, even if I must use plain and, perhaps, shocking language. Would you praise a physician who, in order to spare the feelings of a patient, hides the truth from him and lets him die without warning?

I cannot and will not say that all wealthy people or employers are unscrupulous exploiters of human labor. Some among them are entirely honest and sincere. Right here in the Philippines, I know of a young Catholic employer who makes great personal sacrifices to give the laborer his due in justice and charity. Sad to say, he has been severely criticized and even ridiculed. Doubtless there are some others like him. Would that there were more. The number, however, of those who forget these ideals in dealing with laborers is still

very high, too high. To these I say: If you do not want to gather the bitter fruits of your mistakes, do justice to those who have a right to it.

It will not be my words which will stir up class hatred and resentment. Hatred and resentment are already alive among the ill-treated and exploited workers. If we fail to realize and acknowledge this fact, others will, not in order to raise and to rebuild, but only to bring about havoc and destruction.

Another objection commonly offered is this. With the rise in the cost of labor, the cost of production will also increase, and many firms, not being able to stand competition, will be compelled to close down and thus deprive many people of jobs.

To this I say: If sacrifices are required to save a firm from bankruptcy, then let these sacrifices be shared by all concerned—by capital, by management and by labor. But do not let the laborers and their families, by far the majority of them already receiving salaries far too small to support decent family life, be alone in carrying the burden of the enterprise's financial difficulties. They should not be deprived of their just due, when capital and management still get their fat shares.

Others will say: "If wages of laborers are raised much needed foreign capital will not be attracted to this country, and its economic recovery will not be forthcoming."

In answer to this objection, let me ask a question. "Do you think foreign capital will be attracted to a country where the worker is underpaid, dissatisfied, ready to accept Communism and to start trouble? Do you expect foreign capital to risk investments in a country ripe for social unrest and upheaval?"

I can almost hear the reaction of the Communists to these words of mine: "This is an old trick. The Catholic Church is talking a lot for the workingman but she is doing nothing effective."

In an earlier part of this speech I briefly hurried through the history of the Church's fight, and it was always an effective fight, for the downtrodden people. To enumerate the various battles the Church is today winning on the labor front, to put down the victories of social justice Catholic efforts have won for the wage-earner, would take too much time. All I shall ask the Communists to do is to study with an open mind the labor movements instituted and inspired by the Catholic Church and Catholic principles, in such lands as France, Holland, Belgium, Italy. Have these strong labor movements, or have they not, contributed considerably to the improvement of the lot of the workingman? To the Communists I also ask, "Why is the Church being so ruthlessly persecuted in red-dominated countries?"

But perhaps the Communists will repeat another old accusation that the

Church is again being the tool of the capitalists, that she is offering words soothing to the open wounds of the wage-earners merely to capture them and again put them under the control of the capitalists. How foolish is this charge, how empty of truth it is will appear to any who will read the pronouncements of the Popes and will examine the record of Catholic effort.

EMBARRASSING QUESTION

Is it not apparent that the Church is still standing, where she has always stood, in the crossfire that comes upon it from the materialism of the left and the materialism of the right? Each one is accusing Catholicism of being allied to the other. Between these two fires, the Church will continue to work unrelentingly to raise men from the disaster caused by these two extremes. Somebody, finally, may ask: why has the Catholic Church, with her doctrine and her organization, failed to eliminate the abuses of liberal capitalism and to stop the progress of Communism?

I shall not deny that for us this is an embarrassing question. To answer it we must make an act of humility and of honest acknowledgment. The doctrine of the gospel is before us, we have the clear, powerful teaching of the Popes, but many, too many Catholics have failed to listen to and to follow the commands of Christ and of His Vicar on earth. Too many Catholics, while calling themselves de-

vout children of the Church, have remained deaf to her appeals and have preferred the profits of sin to the law of justice and charity. I shall say, however, that not a few Catholics have followed the voice of the Church and of their conscience; and have courageously fought for right and for justice. They are really the salt of the earth.

On then, my friends, the battle is not yet over; Communism has not achieved its final victory. We have the promise of Christ that "the gates of hell shall not prevail," because the Church is founded on the rock, which is Peter.

However, if we want to prevent other countries from falling prey to Communism, if you want to save your own country from ruin and slavery, you must wake up and act quickly, before it is too late.

PRACTICAL PLAN OF ACTION

To come to a conclusion:

What, then, are the Catholics in the Philippines supposed and expected to do, and, particularly, you, fellow Knights of Columbus?

1. First of all, you must become fully acquainted with the social teachings of the Church. You should read and study the Papal documents, some summary of Catholic social doctrine. You should organize and attend lectures and conferences where experts will expound and comment on this doctrine. You should organize study

clubs where discussions are held on practical applications of the social teachings.

2. You should put in practice what you will learn. Catholic employers must treat their employes with justice and charity, give them the full family living wage to which the worker has a right, with all the assistance and provisions which are part of such a right; recognize labor unions and cooperate with them in "a spirit of honesty, sympathy and understanding."

Catholic employes must cooperate with their fellow workers, fight together with them when necessary, avoiding unreasonable demands, violence or violation of the owner's property, and not resort to strikes or walkouts except as an extreme remedy, when all other means of obtaining justice have failed.

It is our duty to multiply institutions of charity, orphanages, hospitals for the poor, homes for the old people, for the blind, for the deaf and dumb, for the handicapped. I want to pay a public and solemn homage to the good Sisters who have dedicated themselves to this work of charity. We cannot think without emotion of those heroic Sisters who are dedicating their lives to the lepers at Culion and at Tala and elsewhere, who bring to them the loving care of a motherly heart. They are the great living proof of Catholicism's vitality. However, these institutions are too few. We must increase their number in every diocese;

in every fair-sized town, we must have this basic and essential work of charity.

3. Catholics must, moreover, be ready to follow the dictates of the Holy Father and of the Hierarchy in the Philippines in any action that the Church shall find necessary or convenient, in order to establish a truly Christian social order in this country, and to eliminate social injustices and abuses, which endanger today the peaceful progress of the nation, the basic freedom of democratic life, and particularly the freedom to believe in God and to practice publicly one's religion.

APPEAL TO KNIGHTS

Dear fellow Knights of Columbus, who are sworn to uphold your faith and to work for what is right and just, this is the message I have for you this evening. It is not a message simply of congratulations and of the usual Catholic Action suggestions. It is a message of battle, a message of sacrifice, a message of dedication. As representative of Our Holy Father, Pius XII, I am asking you tonight to join this battle with courage and faith, to assume this sacrifice with determination and generosity, to dedicate yourselves to this noble and sacred task without compromise or reservation.

Each one of you, in his small or wide circle of influence, in his own particular position in life, can do his

bit in bringing the Kingdom of God where the Kingdom of Mammon still prevails. As an organized body, you will be able to do wonders, and be the right hand of the Hierarchy and the clergy in bringing about the triumph of God's ideals in social and public life.

In the great struggle going on in the world between the spirit of materialism, both liberal and Communist, and the spirit of the Gospel, you can play a great and decisive role. It is up to you to make this Catholic country of the Far East, these fairest Islands between two continents and between two mighty oceans, a haven of truly Christian order and peace, where all classes of citizens will cooperate loyally and harmoniously in helping each other and in

building up the prosperity and the greatness of the nation.

But it is also up to you not to allow it to become the next victim of the progressive expansion of Atheistic Communism, the theater of fratricidal fights, and finally of another iron foreign domination.

As Pope Pius XII said in his 1942 Christmas allocution: "The call of the moment is not lamentation, but action; not lamentation over what has been, but reconstruction of what is to arise for the good of society." The problem lies clear before you: no less clear is the solution offered to you. The future of your families, of your nation, perhaps of the whole Far East, the very salvation of your immortal soul, hangs upon your answer. What will your choice be?

Soviet Concept of UN

"If the allies had granted to the Soviet Union what they wanted, the Soviet leaders would, perhaps, have sincerely contributed to the task of making the UN a signal success. But the allies have vehemently protested against Soviet expansion. Therefore, the Soviet had reasons for allowing the new organization to exist, but no reason to help it really achieve its ends and thus gain high prestige among men.

"In any case, the United Nations was conceived by the Soviet Union according to its own political pattern as a dictatorial structure superimposed on spurious democratic institutions. The Big Three were to make decisions and the minor nations were to accept them, just as the Politbureau imposes its will on all "representative" bodies. And among the Big Three, the principle of unanimity was to prevail; it was probably taken for granted that the firm will of the Soviet Union, guided by the inexorable logic of Marxism, would prevail over the will of those other partners who were assumed to be in a state of an acute competition inevitable among capitalists."—*N. S. Timashev in* *THOUGHT*, December, 1949.

Make Divorce Easier?

IGNATIUS M. WILKINSON

*Reprinted from "Letters to the Editor" Department of the New York Times**

JUSTICE HENRY GREENBERG of our Supreme Court, as reported in your paper on January 10, urges the desirability of amending our divorce law. He argues as follows: We have one ground of divorce in New York, adultery. That causes "collusion" in 95 per cent of the cases. Therefore, we should broaden the grounds for divorce to include extreme cruelty, habitual drunkenness, desertion for a year or more, and conviction of a major crime.

The Justice, it seems to me, is naive. Does he expect anyone of common sense to believe that people of the kind who now collude to establish adultery will not do so to establish the added grounds for breaking the marriage bond? As you multiply the causes for divorce, automatically you multiply the possibilities for perjury.

The Justice errs again when he says divorce is a result, not a cause of marital failure. It is a great contributory cause. When two people marry, knowing that it must be "for keeps," or "until death do us part," little differences that arise in married life will not develop into great differ-

ences to make shipwreck of their union. They will realize the necessity of making peace after a quarrel. On the other hand, when each approaches wedlock with the knowledge that, if it does not turn out as expected, the way of escape is easy and the door to other experiments elsewhere lies readily open, the reverse will be true. Little differences will become great differences and inevitably easy divorce will act as a centrifugal force tending to drive husband and wife apart.

The Justice suggests the "church" is concerned "more with ancient dogma than the welfare of its people." That is to argue that something must be wrong because it is old. Euclid's proposition, that the sum of the angles of a triangle equals two right angles, may perhaps be described as ancient dogma. It is none the less as true now as when Euclid propounded it. The Justice also begs the question when he assumes that easy divorce promotes the welfare of the people. The frightening daily accounts of men and women, in high station and low, flitting from mate to mate, with divorce and remarriage occurring time and time again ad

* 229 W. 43rd Street, New York 18, N. Y., January 19, 1950

nauseam, tell us the exact contrary. Whatever may be said in favor of easy divorce, apparently it does not promote either human happiness or the welfare of the people.

The Justice limits his criticism to the Catholic and Anglican churches. He makes no mention of orthodox Jews and members of many Protestant sects who, while they tolerate divorce for adultery, certainly would oppose loosening the marriage bond as he suggests.

It isn't merely a Catholic or an Anglican problem. Apart from the matter of morals, it is the country's welfare which gives pause to thoughtful citizens—Catholic, Protestant and Jew alike—in going along with the barnyard morality to which the Justice's views, doubtless without his realization, inevitably and tragically lead.

History tells us that a sound fam-

ily life is essential to the security and well-being of a nation. In Rome, in the so-called Golden Age of Augustus, when the family decayed and easy and frequent divorce became the order of the day, the republic was at an end; and the empire with its tyrannical Caesars replaced it, to give way in turn to the onslaught of the savage and more virile hordes from the North.

If our Republic is not to meet the fate of ancient Rome—and history has the habit of repeating itself—the hedonism which is becoming increasingly characteristic of our times and the repudiation of the Judaeo-Christian tradition on which our Western civilization rests must be halted. We must return to the virtues of our earlier days or ultimately perish. The easier divorce laws for which the Justice argues are not a step toward such a return.



Segregation

"Our system of segregation that the dead hand of the past has fastened upon our generation not only establishes a system of segregation enforced by the sanction of law, but it penalizes the citizen who has no prejudices. A citizen who desires his children to be educated with all the children in the community, both black and white, is forbidden this privilege by law. These laws do not only merely carry out the prejudices of some members of the community; they compel everybody else to abide by such prejudices. The effects of segregation are not confined to those who are colored. They extend to everyone; they bear vitally upon the interest of the nation as a whole."—*From a resolution of the 11th CIO Convention, October 31-November 4, 1949.*

"People's Courts" in the Middle Ages

ROBERT I. BURNS, S.J.

*Reprinted from the HISTORICAL BULLETIN**

THE grim farce of "people's courts" currently enacted behind the Iron Curtain may serve to remind us that such an institution—one far different from its modern caricature—once actually functioned as an instrument of Christian justice. Courts by-and-for the people, handily accessible to the sorriest peasant, unhampered by pretentious professionalism, courts of simple dignity and practicality, were once part and parcel of the daily life of the medieval peasant of England. It will be instructive for the man of the machine age to examine their workings, and to see in their court-records a photograph of medieval village life. The phantom of the brutish serf, who has nothing further to lose but his isolation, his ignorance and his chains, will not

long survive an intelligent reading of those sources.¹

The records of England from mid-thirteenth century on are plentiful enough for our purposes. We may begin by remarking that at the time there was both an ecclesiastical and civil court system in the land, each centralizing, rationalizing and complaining bitterly of encroachment on its rights by the other.

The civil jurisdiction, however, was split again into *public* and *private*. The public included not only the great network of local country courts under their respective sheriffs (an intra-county system of "hundred" courts was in theory included) but also the itinerant justices-in-eyre. These latter were something new in the land, for while shire and hun-

¹ "In fact, as the picture of medieval village life among the tenants of the Durham monastery is displayed in the pages of these *Halmote* accounts, it would seem almost as if the reader were transported to some Utopia of Dreamland." F. A. Gasquet, *English Monastic Life* (New York, Benziger Bros., 1904), p. 199. For an adverse opinion on manorial courts see the incorrigible critic of the Middle Ages, G. G. Coulton, *The Medieval Village* (Cambridge, Cambridge University Press, 1925), ch. VII, "The Manor Court"; the reader will find here the worst that can be said of manor courts, darkened further by puritan and anti-Catholic prejudice, but sometimes illuminating. For a more balanced account consult the preface to *Select pleas in manorial and other seigniorial courts, reigns of Henry III and Edward I*, ed. F. W. Maitland, Selden Society publications vol. II for 1888 (London, 1889); and more recently the splendid volume by Warren O. Ault, *Private Jurisdiction in England* (London, Oxford University Press, 1923).

* St. Louis University, St. Louis 3, Mo., January, 1950

dred moots had formed part of old England even before the Norman conquest of 1066, the eyre-justices represented a throwing open of the king's own council court to the freemen of the realm. Specialized courts would continue to spawn out of the king's feudal curia until there was an exchequer for finance, a king's bench for crown and criminal cases, a common pleas for inter-subject squabbles, a chancellor's court which soon became a sort of supreme court of equity to untangle with common sense the more involved cases. These public courts would spread their centralizing power over the freemen of the land, especially from the thirteenth century on, organizing and unifying by writs, assizes, statutes, claims, reservations and redefinings.

PRIVATE JURISDICTIONS

But for the great mass of ordinary folk there was an extensive private, non-ecclesiastical jurisdiction, each feudal lord holding his own court.

Theorists could distinguish three kinds of these private jurisdictions.²

It was *franchisal* where a lord held major powers of justice such as should obviously belong to the state: a private hundred court or a *de facto* hundred court power, which would soon be swallowed by the growing royal courts until the tamer survival of "Leet Court" or "View of Frankpledge" was left.

Then there was *baronial* or knight's jurisdiction, exercised in an honor court for military tenants over their feudal ties, service, property, titles, and the like; by 1300 this has shrunk into a manorial court for freemen called the court baron.

The third jurisdiction was *domanial*, a court like the baronial in essence except for its economic-social, rather than military, basis. It was the court of the village unit, of the farming community, held for freemen, villein and serf, and it is this court—the *halmote*—which we have spoken of as "the people's court."³ In practice

² Ault, *op. cit.*, pp. 1 ff. Paul Vinogradoff, *Villainage in England, Essays in English Medieval History* (London, Oxford University Press, 1927), p. 362. William Sheppard *The Courtkeeper's Guide for the Keeping of Courts-leet and Courts-baron . . .* (7th ed., London, 1685), p. 1. General legal-historical backgrounds are sketched in F. W. Maitland and F. C. Montague, *A Sketch of English Legal History*, ed. J. F. Colby (London, G. P. Putnam's Sons, 1927); more fully in such works as W. S. Holdsworth, *A History of English Law*, 7 vols. (3rd ed. revised, Boston, Little, Brown and Co., 1923), and T. F. Plucknett, *A Concise History of the Common Law* (4th ed., London, Butterworth and Co., 1948).

³ Halmote, halmote, halimot, halmote, halemot, heal-gemot, halmot, hallimote, hallmoot; for early ME hal-imot, for OE heallgemot or hall meeting (see *Oxford English dictionary*, V, 42). Our outline has simplified a legal development which over several centuries saw other types of courts as well, and which easily admitted of exceptions here or there to almost any part of the general pattern, for example, the non-manorial

the three jurisdictions usually would be merged in one sitting.

Private and royal courts alike were based not upon a legislative but upon a custom law, a set of immemorial principles and customs applied to a case at issue after the example of analogous cases remembered by the villagers. A custom was sacrosanct and neither lord nor king was above it; it was "the soul and life" of the manor tenants, protecting them against "the Lord's Will."⁴ Law as an expression of community *reason*, rather than law as expression of a ruler's *will*, was at the basis of manor court thinking. Custom itself was not static.

Custom taketh Beginning and groweth to Perfection in this Manner: when a reasonable Act once done is found to be good and beneficial to the People, then do they use it often, and by frequent Multiplication of the Act it becomes a Custom; and being continued without Interruption Time out of Mind, it obtaineth the Force of a Law, to bind such a particular Place, Persons and Things . . .⁵

But the custom of the king's court,

which was to develop into England's famed common law, gathered into itself many another element: some statute legislation, regional custom, royal or assembly resolutions. A "case law" (the ordinary manor court also allowed appeal to past decisions in the records), it rested on this modified custom-and-principle idea, and was administered by a lawyer class (who could rise from bar to bench) through judge and modern jury, for benefit of propertied freemen. It would operate with more regularity, justice and smoothness than the manor court could ever achieve, but it would also operate rather expensively, remotely and with a forbidding and confusing professionalism. It is better that manorial jurisdiction should have evolved into a stable and universal state jurisdiction; but the older, more personal system brought, in an age of potential petty tyrants, an easy and effective justice to the man in the field—i. e., to nine-tenths of the population. Altogether, it represents an achieve-

assembly in the leet of Walsoken. Vinogradoff, *op cit.*, p. 364, considers the halmote the only "strictly manorial court." Its origins are tangled and difficult but its legal basis would largely rest on the feudal assumption of public jurisdiction by private lords at a time when feudal responsibilities made such a course natural, and in the inherited petty authority of the pre-Norman vill; the feudal *contract* and communal *social* responsibility, backed by the sanctions of Christian ethical teachings, would solidify it. Slaves would be excluded from the halmote.

⁴ Giles Jacob, *The Complete Court-keeper, or Land-steward's Assistant* (5th ed., London, H. Lintot, 1752), p. 19.

⁵ *Ibid.*, p. 19. But "an unreasonable custom, as for a lord to exact unreasonable fines . . . is void." *Ibid.*, p. 20.

ment no less striking than the contemporary cathedrals and parliaments.

MERCY AND JUSTICE

Theoretically open to large abuse, the manor court generally operated with Christian mercy and Christian justice. One great authority tells us how much she delights "in the vigour, the humour, and the fair dealing of a typical manorial court,"⁶ while another has concluded a brilliant volume on private jurisdiction with the words:

The court declared the custom of the manor; and the impression one gets is that the custom of the manor is the law of the manor, binding upon lord and tenants alike. In its political philosophy feudalism is not a form of despotism, benevolent or otherwise. It is more akin to the limited monarchy.⁷

Vinogradoff, the great Russian historian of English manorialism, has also emphasized this aspect:

Let us repeat again, that the management of the manor is by no means dependent on capricious and one-sided expressions of the Lord's will. On the contrary, every known act of its life is connected with collegiate decisions. Notwithstanding the absolute character of the lord . . . he is in truth but the centre of a community represented by meetings or courts.⁸

Courts were held at regular intervals—at the least twice a year, at most (and more usually) every three weeks. The villager received a formal summons, often from a minor village official, and unless he could produce a good excuse, he must perform the time-consuming duty under pain of a stiff fine. Court records often open with such entries as "John s[on] of Matilda, 6d for not coming"; Baldwin "is in default because he has not attended the halmote"; Dick Turpin is in default "because he did not answer when summoned."⁹ The halmote, as its name implies,

⁶ Ada E. Levett, *Studies in Manorial History*, ed. H. M. Cam *et alii* (Oxford, Clarendon Press, 1938), p. 40.

⁷ Ault, *op. cit.*, p. 344; cf. p. 176.

⁸ Vinogradoff, *op. cit.*, p. 361; see pp. 354-5. Not only were villeins not easily replaced, as slaves would have been, but as long as they were running the manor through the halmote, not even an inefficient steward or an incompetent lord could destroy its prosperity. Above all economic considerations, moreover, was the steady leaven of Christian otherworldliness and the theological basis of justice and brotherhood; even when delivering dark sermons on contemporary injustice the medieval reformer appeals to this instinct in his fellows.

⁹ *Court rolls of the manor of Wakefield*, ed. J. Lister, Yorkshire Archaeological Society, Record Series vol. LVII, 1917, p. 22, Levett, *op. cit.*, p. 317. *Court rolls of the abbey of Ramsey and the honor of Clare*, ed. Warren O. Ault (New Haven, Yale University Press, 1928), p. 270. On December 8, 1294, at Hales, "tota curia fecit defaultam" except for 16 who are then listed. *Court rolls of the manor of Hales, 1270-1307*, ed. John Amplett (Oxford, Worcestershire Historical Society, 1912), p. 311. The summons was to the tenure and so to the male head of the household.

was a community assembly held in the manor hall, but on some manors it met out of doors, in a villein's house, under a huge tree, in a stable, or even inside the church sanctuary! The lord's steward was a sort of master of ceremonies during the sitting; one steward has left us a continuous record of one-day sittings he supervised during a single circuit of twenty-three manors held by his lord, i. e., twenty-three halmotes in one month.¹⁰ A single halmote would muster from a dozen to a hundred male villagers.

KNEW THE LAW

There were no modern judges, juries or lawyers. The community itself accused, tried and convicted the culprit, then after announcing their verdict (or "doom") they turned him over to the lord or his official to be fined or put at labor or pardoned, all according to formal and fixed custom. Every adult knew the manor law by heart and, whether freeman or serf, could assume in a moment the role of plaintiff, defendant, witness, law-expert or judge. The village was a juridical "person" and each farmer knew its contract and rights with the lord in whose small realm it "lived"; the whole farming community was responsible for each

member and, like a modern union, could sue the lord or be sued by him.

This "corporate character of the halmote,"¹¹ this communal sense of responsibility, has struck students of the institution forcibly. A negligent plowman or fence builder was not bullied by the overseer (himself elected by the villagers) or overwhelmed by the lord's will;¹² he was solemnly presented by his fellows to the court and the entire court tried him—an even more democratic procedure than student government at universities (which these same generations also invented and employed on a vast scale). Eventually the villagers would elect representative groups from their number to take over certain functions for the whole court that day; these committees, called "juries," were not the modern jury (itself a medieval product), but simply more effective, speedier sections of manor court in miniature.¹³

In businesslike pattern the "oyez" cry of the beadle would be followed by proceedings against absentee villagers, the swearing in of the committee (or juries), then the accusations, deliberations, defenses and verdicts, all written by a clerk into the court "rolls." The assembled farmers tolerated no nonsense, and contempt of court sentences were im-

¹⁰ Ramsey rolls, *op. cit.*, p. 23. ¹¹ Levett, *op. cit.*, p. 142. ¹² Vinogradoff, *op. cit.* p. 368.

¹³ This did not represent a decline in halmote democratic procedure as some earlier writers have felt; see Ault, *op. cit.*, pp. 343-44.

posed on chatterers, disturbers, or those making unseemly protest over an adverse verdict. Much of the court business concerned infringements of manorial usage (trespass, cheating, etc.), offenses against public morality (rape, adultery, slander, and the like), and manorial business, elections and property contract. A few courts had, at different times, a higher jurisdiction, and one reads in their rolls ominous marginal notations like "let him have a priest" or "he was hanged."¹⁴

FORMAL PROCEDURE

In a thirteenth-century manuscript on how to hold a manor court—*Here May a Young Man See How He Should Speak Subtly in Court*¹⁵—we have the formal procedures outlined at some length, with typical cases included. William the Baker is charged with having ignored the communal standards in producing his product and is fined; a villein whose mare has been wandering in the lord's corn throws himself upon the judgment of his fellows and receives the usual fine; another is fined because his son stole apples from the lord's special garden; and one

Thomas is hauled up for having "sold in full market fish which was stinking and putrid and in every way rotten and contrary to the liberty of the vill and the ordinance . . ."¹⁶

Though the actual court rolls are "police records" and so present the peasant under the worst light, the total effect of reading the rolls is one of admiration both for the juridical system and for the vigorous Christian viewpoint of the peasant himself. Most of the charges are for naive human failings much less malicious than many retailed in a modern city's tabloids. Criminal enormities usually fell outside manor jurisdiction, but few lapses below that category would escape the sharp-eyed farmers-turned-prosecutor.

Blood was drawn in petty squabbles during one hectic year at Wakefield (1286), a circumstance which increased the fines.¹⁷ At Ramsey abbey Henry Aylmar has pummeled (*verberavit*) Simon Norman on the king's road last St. James' day, while an irate William has to be fined for wielding an injurious pitchfork (*furca ferrea*) against a neighbor.¹⁸ One entry notes a burglary, another a wounding by crossbow, another the

¹⁴ Henry S. Bennett, *Life on the English Manor, a Study of Peasant Conditions 1150-1400*, Cambridge Studies in Medieval Life and Thought (ed. G. G. Coulton), (London, Cambridge University Press, 1938), pp. 196-97.

¹⁵ Anonymous, ed. Helen M. Briggs (London, Sweet and Maxwell, 1936).

¹⁶ *Ibid.*, p. 9, see pp. 1, 3, 7.

¹⁷ *Wakefield rolls, op. cit.*, p. 160.

¹⁸ *Ramsey rolls, op. cit.*, pp. 150-185.

avoidance of taxes-in-kind at the lord's mill by secretly using hand mills (a common offense).¹⁹

Searching among more normal and prosaic entries for the picturesque, we find at various manors: a wife and friend gang up to beat a husband; two cases of wife-beating are considered; John Clericus has clouted (*percussit*) one Alice; someone has been dragged by the hair and had his shirt torn in a fight; eight young women and a lone male are addicted to (*consueti*) firing neighbor's fences; and one poor eccentric has burned down Agnes Daleby's house.²⁰ At Hales, Thomas Brid is in trouble because his dog bit the woman plaintiff (*momordebat*: probably made a habit of biting her!) Certain turbulent families, like the Simonds of Hales, are constantly in and out of court.²¹

REDRESS FOR SLANDER

An interesting feature of the manor court is the facility with which one might obtain redress for slander or abusive language. In 1365 villagers of one community are ordered, under pain of a half-mark fine, not to call a

fellow villager "bumpkin" (*rusticus*).²² *Injuste defamuit* is a common entry in many courts and demonstrates both the nice moral sense of the community and the ease with which redress might be obtained for small but real injury. At Schytlingdon, Alexander Carrectarius has defamed William Lambert and wife as chicken thieves; in a Hales court of 1294 Richard the Shepherd complains that Thomas de Hulle has slandered him as stealing a sheep from the common flock; and one tenant (1305) even charges slander of her good name, though a reading of previous court rolls shows she has little to defend.²³

Dereliction of duty or petty cheating is of course not uncommon, and many rolls have much ado about this. A farmer slyly plows a bit beyond his own land (to the plaintiff's "damage 40d"); another is ordered to demolish a wall he has built to the great damage of Richard Fraunceys; one Alan Cocus (1294) has plowed and sown four feet of his neighbor's land, and the court awards the coming harvest to the neighbor!²⁴ Sloppy plowing of the demesne land (*male arau-*

¹⁹ Wakefield rolls, *op. cit.*, pp. 163-64.

²⁰ Ramsey rolls, *op. cit.*, pp. 251, 223, 209, 189; Hales rolls, *op. cit.*, pp. 257, 276-77.

²¹ Hales rolls, *op. cit.*, pp. 475-492n.

²² *Halmota prioratus dunelmensis. Containing extracts from the halmote court or manor rolls of the prior and convent of Durham. A. D. 1296-A. D. 1384*, ed. J. Booth, Publications of the Surtees Society vol. LXXXII (Durham, 1886), p. 40.

²³ Ramsey rolls, *op. cit.*, p. 191. Hales rolls, *op. cit.*, pp. 265, 522.

²⁴ Lathe court rolls and views of frankpledge in the rape of Hastings, A. D. 1387

erunt) brings three men before a Ramsey court.²⁵ A Hales court (1297) charges Thomas le Esquier with holding shut a croft which should in part be used by the community.²⁶

Outright stealing was known then as now: everything from acorns (*pro glandibus collectis*, 1297) to dung (1301).²⁷ A tenant of Lathe pilfers two mares and sixteen sheep on the feast of St. Margaret; a burglar at Wakefield gets away (1286) but is condemned anyway *in absentia*: "let him be taken when he can be found"; and the parents of three different Wakefield children must pay 2d each because their youngsters have been caught "snaring birds."²⁸

Sexual lapses, a not unexpected failing in the human story, occupy a place in the court entries—but generally not at all what one would expect both from a reading of reforming preachers and poets and from a consideration of primitive societies (where, moreover, few weaknesses of this kind would escape the village gossips). The basis of some of this particular jurisdiction may be explained by the economic loss in

manor chattels when ecclesiastical courts put a heavy fine on a culprit in a morals case; but the concern manifested in the documents is by no means confined to economics.

In 1315 at Wakefield the villeins indignantly charge "that Richard del Ker has lived an incestuous life amongst them and has allowed the harlot, forbidden by the steward, to return again, the penalty assigned being 40s"—a severe fine; on the accused's plea that the woman is merely a species of medieval baby-sitter, "an inquisition is taken of the whole graveship, who find otherwise."²⁹ In 1286 Christina Wade was condemned because she "receives strangers at night contrary to the statute, and is an evildoer"³⁰ (The attitudes displayed in this sort of condemnation should serve as a corrective for those seekers of the sensational who would contrive a medieval Kinsey report from a study of idlers and students in the Paris Latin Quarter: nine-tenths of the population were on the manor farm.) A major scandal must have been the case of the Hales bailiff himself who in 1300 was charged (among other offenses) with double

to A. D. 1474, ed. E. J. Courthope and B. E. Formoy, Sussex Record Society vol. XXXVII (Lewes, 1931), 23. Ramsey rolls, *op. cit.*, pp. 188, 210.

²⁵ Ramsey rolls, *op. cit.*, p. 243.

²⁶ Hales rolls, *op. cit.*, p. 378.

²⁷ *Ibid.*, pp. 378, 433.

²⁸ Lathe rolls, *op. cit.*, p. 5. Wakefield rolls, *op. cit.*, pp. 55, 163.

²⁹ Wakefield rolls, *op. cit.*, p. 94.

³⁰ *Ibid.*, p. 166.

adultery—one "off and on" (*pro voluntate sua*) and one habitual (*conversando*).³¹ At Ramsey, Alice is pregnant *extra matrimonium*, as is Lucy (the man in the latter case is mentioned); and in 1288 the same charge is brought against Alice, Amicia and a Matilda Hokel.³²

Finally, there are in the court rolls interminable entries relating to business, debts, broken promises, contracts formal and informal, marriage licenses, inheritance taxes, elections of villeins to officialdom, property deals, and the like. Brothers quarrel over the inheritance of their father's lands; Dionysius Henry takes a wife without previously securing a license, and the widow Elena Barun, and Sarra Crain, also try to marry without the payment; Roger has been ordained a priest without the formality of the lord's permission; young widow Byssop and widow Payn are warned to provide themselves with husbands (probably to take up the share of communal work their landholding demanded—or else lose the

land); a runaway serf (he is on the land of a neighboring abbot) is noted.³³ At Wimbledon a royal proclamation is read on the convenient occasion of the halmote.³⁴

Typical business entries from Park manor in the thirteenth century include a quarrel over ownership of four acres of land (*utrum ille habeat maius ius*) a payment of inheritance tax (*gersummavit* 30 shillings), a purchase of land without permit—i. e., without registration and fee, several land contracts, entrance into possession, and so forth.³⁵ On Codicot manor someone has avoided the merchet fee by marrying away his daughter without license.³⁶

WOMEN'S RIGHTS

Sometimes the lord himself was defendant; one interesting case of this kind took place at Norton, where an early advocate of women's rights complains the tax upon her dead husband's chattels is unjust since she herself had held the possession (she lost the case when the villagers ruled

³¹ *Hales rolls, op. cit.*, pp. 403-4

³² *Ramsey rolls, op. cit.*, pp. 189, 194. Thomas Aleyn forfeited chattels of the lord in an ecclesiastical court "super fornicationem cum Margareta Chircheman" and so is before the halmote, *ibid.*, p. 239.

³³ *Ramsey rolls, op. cit.*, pp. 219, 207, 211, 194.

³⁴ Extract from the court rolls of the manor of Wimbledon, extending from 1 Edward IV to A. D. 1864. Selected from the original rolls for the use of the Wimbledon common committee (London, Wyman and Sons, 1866), p. 15.

³⁵ Levett, *op. cit.*, pp. 301-311 (Park rolls extracts).

³⁶ *Ibid.*, p. 321 (Codicot rolls extracts).

vir est caput mulieris: the man is full head of the family).³⁷ Sometimes the whole township would fine itself as a body for dereliction of a proper duty, as at Wakefield where the peasants had neglected after a burglary to raise the hue "as it ought to have been."³⁸

Communal orders are also promulgated in the halmote, as at Est-Raynton where all are admonished to see that pigs have rings put on their snouts (a Wimbledon family of five are fined 4d each for having "unrung" (*inanulatos*) porkers rooting about).³⁹ Private housing projects were not rare: at Durham John Bars was told to repair his cottage before next court or lose it.⁴⁰ Manor officials are usually elected by the villeins from among their number, as at Neuton Beulewe manor where a *praepositus* is chosen or at Wimbledon where beadle and reeve are elected.⁴¹ Social and labor notes of all kinds pop up in the records; at Broughton the tenants once went out on an all-day strike during harvest.⁴²

Many elements of the manor court merit more than the passing

glance we are giving them here. Rashdall calls attention, for example, to the extent of popular literacy when the accounts are kept in Latin (and a sound and workmanlike Latin it is, as good as that of schoolmen and statesmen in its way) by "the bailiff of every manor."⁴³ And we may add that, besides the literacy of certain officials, the rolls demonstrate for this pre-printing era a shrewd ethical and legal education among the common villagers. Cunningham has noted as well that the manor officials had to be very good accountants and businessmen to manage the more complicated manor systems.⁴⁴

PAYING FINES

Another sidelight is the presence of money and money-mindedness in manors still thoroughly wrapped in a closed, natural economy; many fines may actually have been paid in labor, many more certainly were not. A proverb of the time reminds us that "justice is great profit," and the halmote profits formed a separate paragraph in the reeve's annual accounting (*compotus*). A single sit-

³⁷ *Ibid.*, 335 (Norton rolls extracts).

³⁸ *Wakefield rolls, op. cit.*, p. 164.

³⁹ *Durham rolls, op. cit.*, p. 50. *Wimbledon rolls, op. cit.*, p. 9.

⁴⁰ *Durham rolls, op. cit.*, p. 76.

⁴¹ *Ibid.*, p. 110. *Wimbledon rolls, op. cit.*, p. 33.

⁴² *Ramsey rolls, intro.*, p. L.

⁴³ H. Rashdall, *The Universities of Europe in the Middle Ages*, ed. F. M. Powicks and A. B. Emden, 3 vols. (Oxford, Clarendon Press, 1936), III, 351.

⁴⁴ W. Cunningham, *The Growth of English Industry and Commerce during the Early Middle Ages* (Cambridge, Cambridge University Press, 1927), I, 237.

ting of one of Ramsey's courts brought (November 4, 1288) the not inconsiderable sum of 48s-6d; and on November 2, 1308, the court of Clare Honor achieved the rare sum of well over ten pounds, a feat it surpassed on April 9, 1309, with 11£-13s-8d.⁴⁵

After the fourteenth century "the decline of the private court proceeds rapidly, and the interest of the student no less so."⁴⁶ The medieval world is in its deep twilight and England will soon be shaken by the Wars of the Roses, the money-centered economy, the breakdown of the services system, the growing-pains of intra-national economic and political relations, the farming out of the domain, the growth of courts baron and professionalism, the impact of Tudor tyranny and Roman law. The world is getting more complex and the old institutions must adapt to the changes or die. Common law, despite efforts to halt its progress, even infiltrates the manor court, while England's prosperous villeinage rapidly buy their way into full freedom from hereditary economic contract and so gain access to the now dominant royal courts. Manor courts, se-

verely limited now in jurisdiction, survive into modern times, and are planted for a time on areas of American colonial soil, where they take sturdy if temporary root; the original manuscript rolls in the Treasure Manuscript archives of Columbia University's law library continue well up into the eighteenth century, and Court Keeper's guides, as is well known, were still being published at that time.⁴⁷

The manorial system, like all else in this "vale of tears," was no utopia; economically and politically we have advanced beyond it—perhaps not quite so far as was once thought, nor half so far as four centuries ought to have achieved. The transition in the legal sphere was painful indeed and, when the manorial court did disappear, a bit prematurely, in a world grown more predatory, justice was for many generations crippled. Ada E. Levett, a recognized authority on the manor court, has remarked that the "disastrous decay of the English manorial courts" deprived "the smaller land-holder of his main line of defense and his method of corporate self-expression, leaving him inarticulate in a predatory world."⁴⁸

⁴⁵ *Ramsey rolls, op. cit., intro., XXVI; p. 195.*

⁴⁶ *Ibid., p. ix.*

⁴⁷ The Columbia MSS include Thorley manor court rolls from 1770 to 1773 and 1719 ff (a court baron), an extract (1669) from the Winksley manor court rolls for 1539, a copy of the Minsterly manor court rolls for 1630, and a truly magnificent set of court rolls from Welborne through 1652 in thirteen great rolls.

⁴⁸ *Op. cit., p. 21.*

Indonesian Settlement

D. G. M. JACKSON

*Reprinted from THE ADVOCATE**

AT last, the Dutch have bowed to the inevitable with a good grace, and accepted the establishment of the United States of Indonesia as a Republic in free partnership with the Kingdom of the Netherlands. There was nothing else to be done in the circumstances; for, while they could, no doubt, have overcome local resistance to a restoration of their colonial authority, they had also to cope with the unfriendly attitude of the United States and Australia to their cause; and, to begin with, the whole business had been compromised by the incomprehensible decision of the British Government to give a quasi-recognition to the Soekarno "junta" just after the Japanese surrender. Moreover, the Indonesian revolt had the sympathy of the powerful Nationalist movements in India and all over the East; while, finally, to suppress it out of hand would have been to play into the hands of the Communist international plan, by throwing the Nationalist leadership into the hands of irreconcilable elements.

The difficulty, all along, has been that of the relationship of Soekarno and Hatta with these elements—the doubt whether their collaboration

with them was not paving the way for the conquest by Red "infiltration" of the whole militant Nationalist movement—as has happened with the Vietnamese in Indo-China. When the open breach between the Djokjakarta "junta" and the Red Leftists occurred at the end of last year, and the revolt of the latter was suppressed, the prospects of a deal with the former colonial authority were improved. The second "police action" of the Dutch probably did some good also. *First*, by demonstrating to the Nationalists that they could not be thrown out, and were not prepared to be edged out of Indonesia by the method of attrition without any kind of firm agreement; and *secondly*, by showing the more "die-hard" Netherlanders on the other side that the American authorities were invincibly opposed to a Dutch-imposed settlement of any sort, no matter how liberal. The test, I think, has served to reinforce the "will to reach agreement" on both sides.

From the beginning, the Dutch were committed to the principle of full "Home Rule" for the Indies—this was promised as early as 1941. Their concern was to safeguard their

* Melbourne, Australia, Nov. 10, 1949

vital economic stake in Indonesia as securely as possible. On the other side, the responsible elements which are now, it seems, predominant among the Republicans saw the undesirability of throwing out the foreigner; but they were resolved to have *complete* sovereignty, with no "strings" except those freely thrown over by themselves by way of bond agreement with friendly Powers.

STATUS OF THE CROWN

The chief dispute as regards the *political* arrangement was that concerning the status of the Dutch Crown in the Indies—whether the symbol of the Queen's sovereignty was to be retained or not. It has, apparently, been settled on lines similar to the arrangement made between the new Indian Republic and the United Kingdom. *Economically*, the Dutch wished to keep a formal veto on Indonesian banking policy until debts were paid off, and so on; the Republicans refused this concession, as a violation of their sovereign rights; but they also made it clear that they wished to pursue a "realistic" economic policy of goodwill towards foreigners in general, and the Dutch in particular. They have seen the mess produced by predatory anti-foreign "nationalization" policies in Burma, and it seems that they propose no more than the nationalization of railways, public utilities and inter-island shipping. There is no

question of forcing the greater part of company capital into Indonesian hands—but merely of getting more Indonesian representation on the boards of foreign companies operating in the Indies.

The last difficulty about the settlement was regarding the status of Dutch New Guinea—and here, it seems to me, the Dutch case is unanswerable. Western New Guinea is in no sense culturally or historically related to the Indonesian world, and its problems of government and economic organization are entirely different. It is clearly undesirable that this huge country with its primitive peoples should be handed over to the control of an inexperienced Oriental Federal Government which will be fully occupied with a number of difficult cultural problems in its own territories. The matter has been left open for the present; but Australians must hope that the Dutch Crown Colony control will not be ended in this region, which actually marches with the area held in trusteeship by our own Commonwealth.

The Hague agreement has been received with a pæan of enthusiasm in London, Washington and Canberra, and ardent hopes are being expressed for the future of Dutch-Indonesian collaboration. It is to be hoped that they will prove well-founded; but everything depends on the prudence of the Dutch and the sincerity of the Indonesian leaders; and on the abil-

ity of the latter to check the disorders of extremist elements. These will certainly attempt to wrest the control of the nationalist movement out of their hands, and to sabotage collaboration with the West; and they will be powerfully backed by the Red Power dominant in China, which will probably exercise its influence upon the large Chinese population in the islands, hitherto attached to the Dutch. If French Indo-China crumbles—which is a very imminent possibility—the situation both in Malaya and Indonesia will become very grave, and the security of our own “Near North” be seriously compromised also.

THE CATHOLIC CHURCH IN INDONESIA

Finally, the missionary aspect of the new settlement is a matter of vital interest to Australian Catholics. In 1942, normal mission work in the Indies was interrupted by the Japanese occupation and the internment of all the Dutch missionaries. This disruption has been prolonged by the struggle in Java and Sumatra, though in the outer islands there has been new expansion in spite of difficulties. The Catholic population has risen from 636,000 in 1942 to about 785,000 last year, according to the figures of the Apostolic Delegate, Archbishop de Jonghe. In Sumatra, however, some Catholics have not seen a

priest since 1942; three Javanese priests have been borrowed for service in this island, because the Dutch cannot circulate freely there.

A great deal of damage has been done to the Church establishments in Java: more especially during the Communist insurrection last year, in which most of the seventy schools of the Sourabaya mission were destroyed. The Vicariate of Semarang, however, is fairly well off. It embraces the Republican capital of Djokjakarta, and its head is the capable young Bishop Soegijapranata, who is a convert from Islam; and he has twenty-six Javanese clergy under him. The weakness of the Church in Indonesia is the insufficiency of native clergy and facilities for training them. To quote Archbishop de Jonghe: “We have only sixty-seven Indonesian priests. For a territory as extensive as from London to Stalingrad, we have only two major seminaries, opened in 1936, and two minor seminaries. It would have been better to have made priests at the same time as the first Christians were made, as was done in the early Church, in China, and in Indo-China.” His Excellency also spoke of the need of a Catholic University in Java, and of the danger of the affiliation of youth movements there with the World Federation of Democratic Youth, “behind which Communism lies concealed.”

A Catholic Daily—a Creative Approach

ADOLPH SCHALK

*Reprinted from ST. JOSEPH MAGAZINE**

ACCORDING to the laws of physics it is impossible for a bumblebee to fly. The bumblebee doesn't know that, so it flies anyway.

Something of the same truth holds for every major accomplishment of man. It was true of Columbus who forgot the impossibility of going East by sailing West—and discovered a new continent. It was true of Lindbergh who flew across the Atlantic when common opinion was against him. It was true of the first man to build a suspension bridge. St. Vincent de Paul was accused of carrying social reform into the realm of impossibility. When Pope Leo XIII wrote his famous encyclical on labor, *Rerum Novarum*, his contemporaries called it the “premature” and impossible rumblings of a withering old man.

Among the unachievable of our time is the proposed Catholic daily newspaper for the United States. But we can't really know whether it is possible until we try.

Before we can talk about the possibility of a Catholic daily, however, we have to have some notion of what kind of a paper it would be.

For one thing, a Catholic daily would not be a house organ for members of an exclusive spiritual club. There will be no headlines of the “Catholic Plane Descends In Catholic Meadow” variety. It will not be provincial. It will not give the impression that the fate of thousands in an earthquake is less important than the appointment of a new assistant priest to St. Ildephonse Church.

This lack of universal outlook among many Catholics has been denounced by Archbishop Cushing of Boston in his introduction to Abbé Michonneau's book, *Revolution in a City Parish*.

All too often our parishes are far from possessing the truly Catholic concept of the term as it was used in the Middle Ages . . . the element of all-embracingness has long since been forgotten. . . . The parish is a sort of spiritual club, the membership of which is composed of chosen adherents within a given area, who live their lives together and ignore all other inhabitants of the area.

A Catholic daily, therefore, must be Catholic in this sense, that it nec-

* St. Benedict, Oregon, February, 1950.

essarily includes news about all people and not just news about Catholics alone or news slanted exclusively for a Catholic audience.

While its Catholicity must be evident from the way in which the application of Catholic principles is made upon the news, the paper must maintain a strictly unofficial status with respect to the official Church. When a Catholic daily is mentioned, many people think of it as another burden to be imposed upon the hierarchy. But such a project is not properly the function of the hierarchy; rather it is the responsibility of the laity.

A Catholic daily should not be initiated, directed or staffed by the hierarchy or clergy. Certainly it will be necessary that priests are available to the staff for frequent consultation regarding policy and particular problems that occur. But the official Church would needlessly be put into a very dangerous position were she called upon to defend hundreds of judgments that an editor must make every day in his handling of the news.

APPLICATION OF CATHOLIC PRINCIPLES

Consider a parallel case. A lot of people complain because when they ask priests for advice the priests don't apply the principles of the Church concretely enough. "I asked Father Jones whether I should enter the convent and he doesn't give me a yes or a no for an answer." But life is not lived according to a blueprint. It grows organically like a rose, spreading its petals in its effort to reach the sky. The priest in the confessional cannot live the penitent's life for him. That the penitent must do for himself. It is easy to see the dangerous position the Church would be in if priests would in every instance give clear-cut answers to people seeking advice. The priest can examine the circumstances of a girl who desires to join the convent. He can see favorable conditions for such a decision or he can perhaps sense a danger, unnoticed by the girl, which should be a warning not to join. But the final decision rests with the girl herself. She receives the principles of the Church from the priest and advice why she should or should not enter the convent, but it is up to her to make the application.

The application of Catholic principles to the news is likewise the responsibility of the laity. A Catholic daily will simply be a daily newspaper edited by lay Catholics and based on Catholic principles.

This view is supported by the Reverend Paul Bussard, editor of the

Catholic Digest. In his address given at the Notre Dame Commencement Exercises June 9, 1949, Father Bussard said:

Why . . . is there no Catholic daily newspaper in these United States? I think the answer is that the laity have been expecting a daily to be handed down to them by the hierarchy. They have thought of it as something they would be given to support, rather than produce. . . . They have been under the wrong impression that a Catholic paper must be operated by priests or bishops since they are the ones who administer the Sacraments.

Quoting the Second Plenary Council of Baltimore of 1866, Father Bussard went on to say that "the bishops want to exercise only a negative control over a publication. The laymen are to be left completely free as long as they publish nothing contrary to faith or morals. Moreover a publication is 'official' only insofar as it carries official documents signed by the ordinary."

When the Third Plenary Council of Baltimore convened in 1884, the bishops spoke about a Catholic daily specifically. They said that such a paper need not bear the name "Catholic," that it should not be an official paper, and that it should not be owned or directed by the hierarchy. In his address, Father Bussard stated that the mind of the bishops is the same today.

IS A CATHOLIC DAILY FEASIBLE?

Is such a paper possible? We won't know until we try. It is encouraging to note, however, that in the city of Chicago Catholics are supporting three Catholic dailies—one in Polish, one in Czech, and one in Lithuanian. Certainly it should be possible for us to support a daily paper in the vernacular.

At a time when the Communists have 105 publications in New York City alone (including the *Daily Worker*), Catholics can well blush with shame for their own default. Everywhere the Liturgical Movement and various expressions of the Lay Apostolate are evident. Everywhere lay participation in the work of the priests is growing. Theology is beginning to be taught, undiluted, in universities and colleges. Catholic labor schools, applying the teachings of the Church to the problems of labor and management, are springing up in more than a hundred cities in the United States. Cana Conferences for married people are spreading like prairie fire across the land. People in greater numbers are attending schools of apostolic formation like Grailville, the School of Interracial Living, and the Center for Christ the King. At a time when an undercur-

rent of renaissance in Christian humanism is springing forth, a Catholic daily newspaper comes as the natural fulfillment of the growth of the Church in America.

"Never," says Father Gerald Vann, O.P., in the *Catholic Art Quarterly* (Pentecost, 1948), "has Catholic journalism had so great an opportunity to do good, and therefore so great a responsibility, as in these present times. What will emerge from the present chaos is as yet undecided, and the broad lines of the decision—whether we will have a pro-Christian or an anti-Christian world—may well be determined to a great extent by the way in which, from day to day and week to week, the Christian view of events and possibilities is put forward to the world."



Two Judgments

"Each man is both an individual person and a part of the whole human race. Wherefore, a twofold judgment is due to him. One, the particular judgment, is that to which he will be subjected [immediately] after death. . . . The other judgment [the general judgment] will be passed on him as a part of the human race."—*St. Thomas Aquinas, SUMMA THEOLOGICA, Suppl., q. 88, al, ad 1.*



New Terra Incognita

"The Communist world has become what the world of Mid-Africa used to be. It is a new Dark Continent, where civilized man penetrates at the risk of being captured, abused and perhaps killed by savages. The adventurous may chance it; the prudent man of affairs will not. No longer can there be trade or normal diplomatic relations or any fruitful exchange in the arts and sciences. There are two worlds, and over one of them the blackness of barbarism has descended. That world more and more is becoming what the old geographers called *Terra Incognita*, a territory unknown and unexplored."—*The New York Times, Feb. 24, 1950.*

Responsibility for Livelihood

PHILIP S. LAND, S.J.

Reprinted from SOCIAL ORDER*

ONE of the changes in content introduced in the October, 1948, issue of *Fortune* was a section devoted to labor. The leading article points out to businessmen the new problems that have risen in twenty-five years as a result of the worker's increased concern with security and his realization of power through trade-union organization.

Management is recognizing the growth of a "dual loyalty" in the worker, loyalty to his company and to his union. Toward this new force competing for worker loyalty, American businessmen have adopted different, often conflicting, attitudes. Some have hoped to keep their workers happy "by profit sharing, psychiatric counseling, and activities described somewhat clankingly as 'human engineering'." Others have resorted to legislation as a restraint upon unions, hence, upon activities which could win greater loyalty from members. A third group has accepted the situation and chosen to work in full cooperation with union leaders.

Whatever their attitude toward the growing influence of trade unions, management officials, says *Fortune*, "have asked whether workers have, on the job, tended to identify themselves less than formerly with the business enterprise, to find a new alle-

giance in the union, a new way of expressing 'we'."

The article continues:

To the degree the question is justified, what might the reason be? Obviously, employing corporations have no legal responsibility for their employees' livelihood comparable to their responsibility for their stockholders' property. And if workers have had a new awareness of this since the depression, important consequences to their search for security may be implied. If so, management, which is committed to some faith in the Protestant ethic emphasizing individual responsibility, risk, and competitiveness, has something to think about.

OTHER SOURCES OF RESPONSIBILITY

Fortune might have pointed to factors other than economic security—social and psychological factors—which have contributed to workers' skepticism. If it wished to confine itself exclusively to economic questions, it might have suggested that responsibilities other than legal—moral and ethical responsibilities—rest upon management to assure their employees' livelihood.

But even if we accept the grounds upon which *Fortune* chooses to consider the issue, management still has something to think about. It will be profitable to do some thinking about

* 3115 South Grand Blvd., St. Louis 18, Mo., March, 1949

the *obiter dictum*: "Obviously, employing corporations have no legal responsibility for their employees' livelihood comparable to their responsibility for their stockholders' property."¹

The sentence, as it stands, seems rather an understatement if it refers, as seems the intent, exclusively to corporation law. That portion of law does impose a responsibility upon management to operate solely in the interests of the incorporated property holders. But corporation law does not exhaust the sources of legal responsibility, and it is worthwhile exploring somewhat further the present status of management's responsibility before the law for the livelihood of its employees.²

CORPORATION LAW

Corporation law, as interpreted by the courts, has not achieved any precision in naming the relationship of management to the corporation and to the stockholders as individuals.

There is recognition of *some sort of* agency to the corporation as principal and of some sort of fiduciary relationship to stockholders as individuals. It remains true, however, that "this trust theory, applied to directors of a corporation, is more a popular term than a legal one, since directors are certainly not trustees in the strict sense of holding a legal title to property in which others hold the equitable interest. No doubt they are fiduciaries of some kind, but if so, their obligations are strangely different from those of agents to particular persons . . . from common law . . ."³ All other relationships of management, including those with employees, are purely contractual. The sole direct beneficiary is the corporation; the individual stockholders are indirectly beneficiaries.

STATUTORY LAW

Both Federal and State statutes, however, and the courts—impelled partly by the initiative of legislatures,

¹ A reading of such studies as Berle and Means, *The Modern Corporation and Private Property*, or R. A. Gordon's *Business Leadership in the Large Corporation* suggests that legal responsibility to stockholders, by and large, does not weigh as heavily upon management as *Fortune* suggests. Gordon says: "The great majority of stockholders have been deprived of control of their property through the diffusion of ownership and the growth in the power of management" (p. 350). Alexander H. Frey says: "One senses that corporate managers have come to regard themselves as it (the corporation)." See his "Noteworthy Decisions in the Law of Private Corporation" 94 *University of Pennsylvania Law Review*.

² Moral responsibility is not discussed here, but it will be obvious from what follows that the law is built upon moral responsibility which corporation law has not yet seen fit to recognize.

³ Alexander Frey approaches this problem of giving a name to the relationship somewhat differently. "In former times the prevalent conception was that the shareholders were the owners of the business and that the directors and executive officers were their representatives acting on their behalf, not exactly as 'agents' but in much the same manner that members of a legislature act for and represent the best interests of their constituents" (in above quoted article).

partly by their own growing sense of the inadequacy of "free contract" and the exaggerated inviolability of "due process"—have made impressive inroads upon immunity from responsibility for employes' livelihood. The legal approach has not been by way of legislating in favor of a particular class interest, for such legislation would have faced unfavorable action by the courts as a result of their acceptance of "interest legislation as an encroachment without due process upon the prerogatives of ownership." Instead, the approach has been by way of declaring "public policy," "public interest," and establishing that no harm was thereby done to business. A sample is the following from the Government's brief in *Friedman-Marks v. NLRB*, 1936: "In the period from 1910 to the present time the industry has been characterized by the gradual acceptance of the procedure of collective bargaining . . . As a result the burdens upon commerce . . . have been eliminated in that area."

The careful study by Julius Cohen⁴ of briefs and decisions in attempts to establish minimum-wage laws for

women shows that the argument was never based primarily upon rights or interests of women themselves, but upon the public welfare at stake. Thus, in response to the Brandeis brief (*Muller v. Oregon*, 1908), the Court said: "As healthy mothers are essential to vigorous offspring, the physical well-being of women becomes an object of public interest and care . . ." To protect the case against the imputation of deprivation of property without due process, Cohen further shows, lengthy arguments were adduced to prove that such laws, e.g., in European countries, had not resulted in loss to business, but rather in benefit.⁵

OPPOSE SOCIAL PROGRESS

Opposition to the courts in this type of action persistently decried the "creation of interest rights" in violation of constitutional protection of property. "So we come back to the first principle that freedom of contract, that *sine-qua non* of property rights, will be frittered away, unless the courts enforce the constitutional rule⁶ that any restriction of an adult citizen's right to contract must be

⁴ Julius Cohen, "The Labor Welfare Cases: A Sociological Approach," 10 *University of Chicago Law Review* (1942). Much of the next two paragraphs of this article is drawn from this extremely interesting study.

⁵ Despite a 1,000-page brief setting forth the desirability of such action, Justice Sutherland, in the 1923 decision in the *District of Columbia* case, could say: "These [the extensive opinions] are all proper enough for the consideration of the lawmaking bodies, since their tendency is to establish the desirability or undesirability of the legislation: but they reflect no legitimate light upon the question of its validity, and that is what we are called upon to decide" (quoted in R. E. Cushman, "What's Happening to Our Constitution," *Public Affairs Pamphlet*, No. 70 [1942] p. 5).

⁶ Cushman, in the above pamphlet (p. 6), describes aptly how this "constitutional rule" was formed. He says: "Freedom of contract, legal equality, the sanctity of private property . . . were first read into the vague phrases of the Fourteenth Amendment and then applied to strike down protective labor legislation. . . ."

necessary to his or her health—reasonably necessary, not merely beneficial" (in *Miller v. Wilson*, 1914, quoted by Cohen). Pleadings against workingmen's compensation laws pleaded that they had as their effect "to take the master's property for the benefit of the servant" (Cohen).

Incidentally, it was the unfortunate need to stress an indeterminate public interest against the particular interest of property which obscured the fact that the courts were *finding*, not creating, rights.⁷

Thus, by the series of legislative acts which we shall proceed to study, sovereignty, set down in the law of corporations as absolute, has been challenged. The corporation can no longer be said to be holding labor at arm's length in purely contractual relationship. As Justice Cardozo put it in his interpretation of Justice Brandeis' "innovating social brief": "The emphasis is shifted to commu-

nity interests, the affirmative enhancement of the human values of the *whole community*—not merely Society, conceived of as individuals dealing with one another at arms length, in which legislation may only seek to protect individuals under disabilities or prevent aggression in the interests of countervailing individual freedom."⁸ Law has effectually put labor *some* place within the corporation, has made management some sort of limited respondent for the livelihood of its work force.⁹

SPECIFIC RESPONSIBILITIES

Concerning legal recognition of a worker's *right to a job*, the following¹⁰ seems to be about all that can be said. The courts have interpreted the right to work as inalienable, as an extension of the very right to life. It has been called 'a property right' (*Goldfield Consolidated Mines v. Goldfield Miners Union*, Nevada,

⁷ If the writer correctly reads court decisions, the tendency has been more and more to ignore the purely legalistic balancing of public interest versus property interest and to accept as arguable, on its own merit, the balancing private group interests involved. Thus Reed, in the Jones & Laughlin decision which validated the NLRB, says: "we leave to the employer all the natural rights which he needs to regulate and operate his business . . . [but] the workman has been found to have rights,—rights of organization to protect himself against the overwhelming material force of the employer. To ask the employer to give up but a trifle of the power which he has, . . . is, in our view, not a deprivation of any liberty or property which is beyond a reasonable interpretation of due process."

⁸ Quoted in Julius Cohen above.

⁹ We have become increasingly aware of legislation to secure the interests of security holders where management has set either its own interests or those of the enterprise against those of security holders. While the word "fiduciary," as understood in a trusteeship, does not describe this responsibility of management to the security holders, still the courts find it hard to give another name. May we not see some sort of similar quasi fiduciary relationship being affirmed toward the work force?

¹⁰ This section on "right to a job" is, in substance, a summary of Henry R. Bernhard, "The Right to a Job," 30 *Cornell Law Quarterly*, 1944-45.

1908). In the opinion of Henry R. Bernhard, "It is now universally admitted that the right to work constitutes a property right, the continued interference with which equity will enjoin . . ."¹¹ To the protection of this right the courts have not brought any consistent action. Some jurisdictions, for instance, have upheld black lists; some have declared them unconstitutional.

Under the Wagner Act, it is an unfair labor practice for an employer to discharge an employee for union activity. But this does not mean that he must hire unionists. Similarly, courts have affirmed the right of an individual not to be discriminated against in employment by reason of his race or religion. Accordingly, the test of color or religion may not be made the basis of selection of applicants. On the other hand, there is no compulsion to employ, e.g., Negroes.

RIGHT NEEDS STRENGTHENING

Bernhard draws two conclusions:

- 1) "... legal protection of the right to work seems deficient";
- 2) "it is established that an unfair labor practice on the part of an employer makes his ordinary right to select his employees 'vulnerable'; his freedom to hire is modified, and the relationship between him and the person he discriminated against is no longer based on *purely private law*" (Italics in-

serted). Finally, it may be noted that the law has nothing to say about the right to a job in the sense of a right to this specific job in this specific enterprise (except the cases discussed above under unfair labor practices and discrimination in hire). Brandeis (in *Senn v. Tile Layers' Protective Union*, 1937) held that "a hoped-for job [Senn's] is not property guaranteed by the Constitution, and the diversion of it to a competitor is not an invasion of a constitutional right."

At this point, some mention should be made of the recent decision of the Supreme Court in cases involving the closed shop. The substance of Frankfurter's opinion, written for a unanimous bench in two of the three cases tested, is that the States have the right to experiment with legislation for the control of industrial relations within their jurisdictions. While these measures are aimed ultimately at restrictions upon hire placed by unions, their direct effect is to protect workers from any kind of discrimination by reason of membership or non-membership in trade unions. On the other hand, a contrary decision striking down State enactments against closed shops could also be construed as a court protection of the worker in his job, inasmuch as it would have strengthened the position of unions in their defense of jobs and incomes.

¹¹ It is doubtful that property right has any proper analogous relationship to physical property and its various instruments of extension. What the courts were doing here was simply to recognize that workers had a right to use injunctive relief against a certain arbitrary action inimical to their right to work. Since the injunction could proceed only by way of property protection, the exigency was met by declaration of property right.

Professor Wilbert E. Moore¹² makes the point that "the unmistakable trend in the law of property is toward a wider recognition of rights in 'intangibles' . . ." He proceeds to say that "It is quite in keeping with these tendencies to maintain that the NLRA and similar legislation reducing the authority of the employer to discharge at will grants to employees at least a partial 'property interest' in the job." In the same passage he refers to an article written by himself on the new concepts of property and quotes as follows: ". . . The legal recognition of collective bargaining as a 'right,' with workers maintaining their employee status during strikes or other labor disputes, and with enforceable claims on employment if illegally discharged, with back pay for the period of illegal withholding of employment—all this amounts to property, however unwilling the courts may be to offend traditional sentiment by the use of the term."¹³

OTHER REGULATIONS

Although legal recognition of right to work has imposed only negative obligations upon those hiring (chiefly in the form of anti-discrimination measures), the law has found indirect

ways to implement this right positively. This has come by way of determining *terms and conditions of employment*.

The first step was to force the employer to assume responsibility for the life and health of an employee while working on an employer's premises. The courts, impelled again by legislative action, swept away all the dodges of common-law admittance of master-servant relationship, fellow-servant responsibility, and immunity where no guilt.

Prior to 1900, the rule of employer liability was based largely upon the common-law principle of wilful and malicious (tortious) injury. With the introduction of workmen's compensation laws, new sources of employer responsibility were discovered or introduced by statute. In 1912, the Supreme Court of Wisconsin said of these new laws:

This extreme and rather harsh rule [the old rule of employer liability] is characterized by a penal element, grounded on the moral turpitude of the wrongful act. Under the statutory system for dealing with personal injury losses incident to performance of the duties of an employer, they are regarded as mutual misfortunes to be charged up, as directly as practicable, to the cost of production. The right to

¹² Wilbert E. Moore, *Industrial Relations and the Social Order*, Milwaukee, 1946, p. 394. Moore cites several references which have not been explored in this article: John R. Commons, *Legal Foundations of Capitalism*, Ch. VIII; Elizabeth Pascal, "The Worker's Equity in His Job," *American Federationist*, 40 (1933) 1296-1303, 41 (1934) 68-75, 1212-1221, 1332-1342, 42 (1935) 44-52, 149-154, 275-277, 748-753; G. T. Schwenning, "The Worker's Legal Right to His Job," *American Federationist*, 39 (1932) 26-32; James P. Rowland, *The Legal Protection of the Worker's Job*, Philadelphia, 1937.

¹³ Wilbert E. Moore, "The Emergence of New Property Conceptions in America," *Journal of Legal and Political Sociology*, 1 (1943) 55.

have the employer regarded as an agency to make payment to the employe and absorb the same as an expense of the industry, regardless of whether the loss is attributable to any human fault, is a legislative creation within the constitutional exercise of the police power to legislate for the public welfare.¹⁴

LIVELIHOOD PROTECTED

In the course of legal evolution, ordinary risks at common law gave way to fixed responsibility of a positive character. This responsibility was implemented by employer contributions in the form of insurance-premium payments to indemnify his workers in case of injury. Other forms of legally-imposed responsibility, such as direct legislation for health and safety, regulation of hours of labor or exclusion of children and women from certain types of work, have been vigorously challenged by management as threats to property rights and freedom of contract. But in recent years courts have been increasingly reluctant to admit this contention and have declared against it.

There has been little question raised about the constitutional right of the state to regulate and specify the "general legal obligation of employers to provide a safe workplace and safe tools . . ." So far as the worker's freedom of contract is concerned, the state's constitutional right

to deprive the worker of work under unsafe or unhealthful conditions has repeatedly been recognized. This has been the case whether the employee's willingness to do so arose from economic pressure or his own ignorance, indifference or even recklessness. This constitutional right of the state extends even to the prohibition of employment imposed on persons especially liable to injury in certain occupations.¹⁵

CHILD LABOR

Attempts to prohibit *child labor* have had two objectives: 1) protection of life, health and morals of children; 2) protection of adult jobs from competition of children. Industry objected that such legislation would cripple it, and further, that it was not inexpedient for children to be employed. With passage of the Fair Labor Standards Act (FLSA) in 1941, the long legislative battle ended. It may be worth pointing out that the Act imposes responsibility for livelihood, not only of the adult population by disallowing cheap child-labor, but also for the future livelihood of children themselves by safeguarding their growth, health and opportunities for education.

Two objectives have likewise been sought in legislation regulating *hours of labor*: 1) protection of health, in view of the increased liability to acci-

¹⁴ State of Wisconsin v. Miller, 144 N.W. 188, quoted in Bulletin No. 126, *Workmen's Compensation Laws of the United States and Foreign Countries*, U. S. Department of Labor, Bureau of Labor Statistics, p. 82.

¹⁵ See David McCabe and Richard Lester, *Labor and Social Organization*, Boston, 1948, pp. 178ff.

dents resulting from long hours of labor; 2) the spreading of work over more workers.¹⁶ The latter objective, denied the Federal legislature under NIRA, was upheld in *Darby v. U.S.*, 1941, which declared the constitutionality of the FLSA. In this type of legislation again appears responsibility for the livelihood of one's own employees.

But a new and more general responsibility is also imposed, that, namely, of helping to provide livelihood for a larger number of the nation's employables. The 40-hour maximum work-week (effective in 1940) could not be exceeded without paying a penalty of time-and-a-half. This means that an employer would do better to increase his work force, if output will demand considerable overtime. It may be observed that the time-and-a-half penalty also served the alternative end sought in the minimum-wage proposals, as we shall see shortly.

Attempts of both State and national legislatures to impose responsibility upon business to pay a minimum wage were frustrated by the Court's decision in 1923 that a law in the District of Columbia setting minimum wages for women interfered with free contract. Renewed attempts to enforce similar laws were made throughout the 1930's,¹⁷ but they met

court disapproval in 1936. But a successful defence was made in March, 1937, and the FLSA, in 1938, broadened scope of minimum-wage coverage to include men. This law imposes upon industry the responsibility to provide for the living not only of a worker, but of a family, which is to be supported from the wages of one adult worker.¹⁸

SUBSISTENCE WAGE REQUIRED

It seems arguable that implicit in the minimum-wage law is the idea that, just as a business will not be permitted to operate unless it is able to meet its obligations to creditors, so also it is to be denied the right to operate unless it provides a minimum of subsistence for its employees. The theory is that if a business cannot assume responsibility for such a minimum, it would require subsidization and thereby become a burden upon the community, rather than a benefit. And while it is true that the condition of our economy since effective date of the maximum of 40c (1940) has made the law practically inoperative, still the law and its tremendously important principle remain. In the event that the present Congress raises the wage to a realistic level, the responsibility will come home to those employers to whom it was intended to apply.

¹⁶ *Op. cit.*, p. 187.

¹⁷ The new approach was to seek a "minimum fair wage in which the wage would be fixed only where it was less than both value of the service and less than a living wage." Intention was to avoid the "living standard wage which fell under Court ban," McCabe and Lester, p. 189.

¹⁸ We do not enter into the economic effects of a minimum wage. Our only purpose is to show responsibilities imposed through it.

In the Supreme Court's decision upholding the FLSA, Justice Stone asserted that Congress could exercise its power to prevent interstate commerce from being used as "an instrument of competition in the distribution of goods produced under substandards of labor."¹⁹ Earlier reversals had not attacked this principle, but had, as in *U.S. v. Schechter*, 1935, (in which NIRA was declared unconstitutional), restricted the scope of interstate commerce, to which alone Federal legislation is applicable. The Court held that what went on in Schechter's poultry yard affected interstate commerce only indirectly and was, accordingly, not subject to Federal law.²⁰ Courts have since held that window washing in a building housing an office engaged in interstate commerce is sufficient to give the Federal Government power to demand minimum standards of labor. No business that affects interstate commerce, either directly or indirectly, will be permitted to victimize labor in the competitive struggle.

MUST PROVIDE SAVING INCOME

Under the heading of accident insurance, we saw that employers have been made responsible for the physical hazards of industrial life. To this obligation the Federal Government has added a further obligation. Industry has been made responsible for indirect payment of a *saving wage* to provide for emergencies and old age. Two contributions, in the form

of insurance premiums, have been exacted. The first is a payroll tax of three per cent paid by the employer toward a state unemployment-insurance fund. The second is a one per cent tax for old-age insurance. Projected increases and extensions of the latter have been largely postponed since 1939, but were asked for again in the President's recent State of the Union message.

This is not the place to discuss the issues involved in social security. One remark, however, will indicate its implication for the employer's responsibility for the livelihood of his employees. It might be asked why an employer should be required to assist in the maintenance of one who will no longer be contributing anything to his enterprise. The answer seems to be that an enterprise should be required to assume some of the same responsibility for depreciation of workers that it assumes for adequate depreciation of plant and equipment. Just as an enterpriser must depreciate the latter two so that capital will remain intact after operations, so must he now see to it that, in some measure, the "capital" involved in a laborer's ability to produce be intact—intact, of course, through compensation.

NEW STATUS FOR LABOR

Of all these legally-imposed responsibilities for workers' livelihood, those introduced under the Wagner Act will probably prove to be the

¹⁹ Robert E. Cushman, *op. cit.*, p. 24.

²⁰ Robert E. Cushman, *op. cit.*, p. 22.

most significant in the long run. Although many provisions of the Act apply only to organized workers, it has established the express public policy of encouraging all laboring men to embrace the advantages of unionism. The Preamble reads:

Experience has proved that protection by law of the right of employees to organize and to bargain collectively safeguards commerce . . . and promotes the flow of commerce. . . It is hereby declared to be the policy of the United States to eliminate the causes of . . . obstruction to the free flow of commerce . . . *by encouraging the practice of collective bargaining* (Italics inserted).

This is something very much more than mere *enabling* of collective bargaining.²¹

²¹ It might be objected that the Congress which wrote the Labor Management Relations Act (Taft-Hartley Act) did not desire such wide encouragement. This is true. But the writer feels justified in ignoring it as an episode outside the trend of the court and Federal legislature.

²² "Of all the interest groups [in corporate enterprise] labor for decades had the greatest stake and the least voice." Gordon, *op. cit.*, p. 254.

²³ Harold Bergen, "Management Prerogatives," *Harvard Business Review* 18 (Winter, 1940).

²⁴ Max Radin, *Manners and Morals of Business*, 1939, p. 243.

²⁵ Vincent M. Barnett, Jr., "The Supreme Court and the Capacity to Govern," *Political Science Quarterly* 63 (September, 1948), and Cushman, *loc cit.* See also note 19, above. That the "judicial restraint" of the courts has at times been a falling-over-backward is accepted by most students of labor relations. The recent decision of the Supreme Court in support of the right of States to legislate against various forms of union security is further confirmation at this point. The substance of Frankfurter's opinion, written for a unanimous bench in two of the three cases tested, is that the States have the right to experiment with legislation for the control of industrial relations within their jurisdictions. He cites Brandeis copiously to this effect and in support of the position that it is not for the Court to interject its own economic or social prepossessions. This acknowledgment by the present Court of a legislature's right to social experiment leads us to expect that if the 81st Congress repeals Taft-Hartley and its restrictions upon union security and returns to the Wagner Act's support of the right to seek union security, the Supreme Court will be in the anomalous position of upholding the national legislature's law on the same grounds which support the States' right to the diametrically opposite experimentation. The following two cases of the text are examples.

Although the explicit objective of the Act is to assure the free flow of commerce, the means used is the substitution of democratic, collective bargaining for arbitrary, unilateral²² decisions concerning the livelihood of employees by management.²³ Max Radin²⁴ sees in this measure a process creating a new *status* for labor. This it undoubtedly is. It is even true to say that collective bargaining has meant the legal entrance of labor into management. Moreover, the trend of court decisions subsequent to passage of the Act reveals that the courts will permit this participation in management to be as wide as Congress (and its administrative boards) sees fit to permit.²⁵

Thus, in 1941, in *U.S. v. Hutche-*

son, the Supreme Court interpreted the anti-injunction provision of the Norris-LaGuardia Act to mean that no act could be enjoined if economic self-interest was the intent of the act, provided there was no combination with a group of employers. This interpretation received several subsequent affirmations which further extended the area of legitimate self-interest. In *Allen Bradley v. Local Union, No. 3, 1945*, the Supreme Court allowed, under the *Hutcheson* interpretation, the exclusion of products manufactured outside New York City (even though they were union-made) because the International Brotherhood of Electrical Workers, AFL, demanded the exclusive use of locally-made materials. This represents not only enormous grant of monopoly power, but legal dictation to management of their product market.²⁶

TOWARD GUARANTEED EMPLOYMENT

Finally, the recent assumption by the Federal Government of responsibility for guaranteeing full employment will inevitably mean that this responsibility will be shared with management. So far as possible, management's share will be accepted voluntarily, but legal obligation will be imposed if the responsibility is shirked. Just what this means cannot very well be measured in a full-employment economy, but should there

be a serious turn-down, there will undoubtedly be some kind of return to a NRA type of voluntary planning by industry for the expansion of employment.²⁷ Moreover, whatever devices government uses to supplement industry's initiative (change in fiscal policies, for instance) will inevitably result in transference to business of the obligation to supply livelihood which the government has assumed.

The right to a family living for most men in the American economy, as it is today, is made concrete as a right to participate somehow within the web of industrial and commercial life. Since industrial development and the division of labor have made this participation indispensable, it is inevitable that the state must secure the individual's right for him. Implementation of that right by imposing concomitant obligations upon leaders of industry has advanced much farther than the *Fortune* article suggests.

SUMMARY

The ways in which government has imposed responsibility for livelihood upon ownership may, by way of summary, be regrouped as follows: 1) directly imposed responsibility for protection of the employee's earning capacity; 2) removal of competition from cheap child and woman labor; 3) directly imposed minimum remuneration and the indirectly forced

²⁶ See preceding note.

²⁷ That adequate power to legislate an NRA exists is the opinion of Barnett, *op. cit.*, Cushman, *op. cit.*, and of Edward Corwin, "The Dissolving Structure of Our Constitutional Law," 20 *Washington Law Review*, November, 1945.

spread of employment; 4) strengthening labor's power to better the terms of employment and pay and to participate in decisions affecting its livelihood; 5) cooperation implicitly demanded with a full-employment policy.

As long as an economic system denies to workers their rightful part in shaping the decisions by which their livelihood is determined and their rightful share in the proceeds of industry, government justly intervenes. The various legislative and judicial actions briefly discussed in this article have been just such interventions calculated to bring in better balance the legal protections of both sides.

Unfortunately, this legislation has

tended to keep the whole issue a matter of sides, rather than of collaboration. So long as this state of affairs continues it will be possible for powerful groups on either side of the bargaining table to make, under the aegis of law, greater demands than are just. What we must now undertake is the development of a functional ordering of economic life in which vocational partners will learn to do voluntarily, through cooperation, what social and economic exigencies demand. Peter Drucker²⁸ has given us a final word for *Fortune's* article. "We must," he says, "get Management to see the plant as a social institution in which a worker has to be given citizenship."

²⁸ Peter F. Drucker, "The Way to Industrial Peace," *Harper's Magazine* (November, December, 1946, January, 1947).

Women Workers

"In 1940 there were an estimated 12.84 million women in the labor force. By the third quarter of 1945 this number had risen to 19.36 million. In October, 1949, there were 18.58 million women employed or seeking employment. Unemployment among women had considerably increased, but these women were still seeking jobs.

"More significant still is the number of married women who are working. In 1946 the Women's Bureau of the Department of Labor reported a sharp rise in the number of families with both husband and wife working. This number had increased by 2 million between 1940 and 1946 to a total of 5.07 million families, which was almost 20 per cent of all families in the United States.

"The significance of these facts for the stability of the American home is immediately evident."—From *SOCIAL ORDER*, February, 1950.

Editorials

New Barden Bill

REPRESENTATIVE Graham A. Barden, who last year caused bitter debate over a program to give Federal aid to education, has a new bill, the nature of which is as yet secret. But Mr. Barden gives his word that the bill will provide "not a penny" aid for any parochial or private school pupil. The fact that he made his promise before an audience of Protestants and Other Americans United for Separation of Church and State credits, rather than modifies, the charge that his proposed bills are anti-Catholic.

The point at issue has been debated widely before and no doubt will be debated again, but the occasion cannot be allowed to pass without calling attention to the central principle, namely, whether persons are going to be denied justice when they adhere to the letter and the spirit of the law.

Representative Barden and other legislators rightly believe that the Federal Government should provide funds for education. Certain religious denominations maintain schools which are open to the public and which are operated in strict conformity to State legislation. These oper-

ate at no cost to government. Now it would seem that since these schools are legal and the students at least as adequately educated in secular subjects as public school children—not to mention educated also in religion—and since the parents of these pupils pay their full share of taxes, but exercise their right of having their children educated as they see fit, these schools should receive a proportionate share of Federal aid.

But these schools never asked for aid and they are not asking for it now. All that friends of these schools ask is that public facilities, paid for by all taxpayers, not be denied children who attend these schools. In other words these friends believe that children in parochial schools are as much entitled to publicly paid for buses and medical examinations as any other children of American taxpayers. They also believe that these children are entitled to publicly paid for tools of education in the form of books.

That denial of these things to children in parochial schools is discrimination, since the facilities are paid for out of public funds, is perfectly obvious to anyone not blinded by prejudice. It would be as reasonable to deny these children use of public

highways to walk to their schools or police protection through traffic. All children should get what government provides; it is as simple as that.—PROVIDENCE VISITOR, *Providence, R. I.*, Feb. 9, 1950.

The Bible and the Schools

THE *News Chronicle* was justified in devoting an editorial this week to the striking results of an inquiry among those who had passed through the State schools on the extent of their Scriptural knowledge.

One fact which emerged from this was that one out of every four persons questioned was unable to name any of the authors of the four Gospels.

The extent of the ignorance drew from the editorialist the comment that while some countries had abandoned the Bible in favor of *Das Kapital*, we seemed to be losing the Bible with nothing yet to put in its place.

A good many comments might be made on this, and the reasons for regret will differ greatly.

To some the neglect of the Bible will appear mainly as a loss to our literature, and that it is a very great one can hardly be denied.

The results will appear most serious to those who hold traditional Protestant views. There was a time when it was said: "The Bible, and the Bible only, is the religion of Protes-

tants." The conclusions from this are obvious.

Catholics have always insisted that the inspired writings are not the sole source of our knowledge of Christ's teaching.

We have recognized that to base a religion on a book and to leave it to the private interpretation of the individual must be fatal to the book and to the religion. Events are confirming this judgment.

However great and valuable the influence of the Scriptures may have been on the development of the English language, there was always something artificial in the supposition that a knowledge of the Kings of Israel constituted "religious instruction."

While these considerations make us approach the question from another standpoint than that of non-Catholics, we can join with them in deploring the disregard of religion of which this is one symptom.

There is something more than a joke in the complaint of a young girl recorded or invented by one of the weekly reviews that "they are dragging religion into Christmas now."

If, as we believe, these facts will be deplored by many people on very differing grounds, we are entitled to assume that there are large numbers outside our own communion who will feel that something ought to be done about it. This has a

direct bearing on the controversy about the schools and we commend it to politicians of all parties.

The theory that the schools under religious control give a secular education inferior to that of the others is contradicted by all the facts, and while we must insist on the supreme importance of character forming by religious teaching, we shall not fall into the error of arguing as though we were compelled to make a choice between goodness and learning.

Perhaps some of those who have not appreciated the Catholic point of view in the past may be led to reconsider some of their assumptions by a knowledge of what "the religion of the book" has done to the book.—*THE UNIVERSE, London, England, Jan. 6, 1950.*

The Enemy Within

SCIENTISTS agree that a few well-aimed atom bombs dropped from enemy planes could wreck some of our largest cities and kill hundreds of thousands. To guard against such a catastrophe and to deter the possible aggressor, our country now is going to make a much more terrible weapon, the hydrogen bomb.

This "hell" bomb, however, cannot head off the disastrous attack that is being made day in and day out on our national life, on the moral as well as physical strength of our nation. This foe within our country

is corrupting the morals of millions and thus paving the way for Communism.

How this foe works was explained by Archbishop Joseph E. Ritter of St. Louis in his baccalaureate sermon at the mid-winter commencement exercises of Notre Dame University. Warning against "well-planned new campaigns to vilify the very fundamentals of person, family and national behavior," the Archbishop said:

Our leading universities hire professors who, in the name of so-called science or freedom of thought, drill into the minds of our youth that self-restraint is a "peril to sanity," that the laws of the Ten Commandments are "outmoded regulations" . . . Our daily press, our film productions, our theaters shamelessly batter the foundation of the family . . . The lawfulness of divorce, the necessity of birth control, the legal and ethical justification of the most revolting practices, the glorifying of euthanasia—all those have become favorite dishes on the intellectual menu of today.

The Archbishop went on to ask whether we must "cower supinely in fear" while "the very basis of our homes is being blasted by irony, scorn and ridicule?"

He answered his query by saying that "occasionally we witness mass movements of revolt against these attempts to corrupt the very heart of the American people and for a while the foes of morality retreat prudently until the storm abates."

One such movement is seen in the rapidly-spreading practice of holding

Canadians conferences for married people and a parallel movement for thorough instruction of engaged couples on the duties and privileges of the married state. These conferences and courses are building strong bulwarks around tens of thousands of families. They are bringing home to large numbers the fact that the Christian home is the cornerstone of the nation. They are offsetting thousands of ideological A-bombs thrown daily at the Christian family through university lectures, the press, movies and the radio.—MICHIGAN CATHOLIC, *Detroit, Mich.*, Feb. 9, 1950.

Partition: A Forgotten Factor

DESPITE the progress promised in the earlier months of the year and embodied in the formation of the Mansion House All-Party Conference, the last year of the half-century has closed without any marked advance towards the great national ideal of a re-united Ireland.

It is good to know that Partition has been raised a little out of the ruck of party politics; it is good, too, to see the partial fulfillment of an early promise that Partition would be brought more prominently before the rest of the world and raised from a purely domestic issue on to the international plane.

There has been, it is true, an intensification of anti-Partition propa-

ganda. With some of it we are not in complete agreement—especially when the propaganda in question unwittingly subscribes to the case made by the British that there is in the North-East a British colony and that the majority of the inhabitants there are British rather than Irish by free choice.

We deprecate the type of propaganda, too, that aims at inducing America to force Britain to withdraw her troops from the North-East. If we are to rely on this for the ending of Partition, we are relying on something highly dangerous, because America is likely to act only in a way that suits her own interests. As America's interests in our case are inevitably bound up with grand strategy and preparations for the next war, her solution for Partition might not be at all in Ireland's interest.

There are those who speak of force as the final arbitrament in the Partition struggle. We find ourselves quite out of sympathy with this school of thought, if for no other reason than that bloodshed is most unlikely to settle so delicate a problem. Wounds left by civil wars are notoriously long in healing, and while none of those now advocating recourse to the gun as a means to re-unite Ireland have a quarrel with our fellow-countrymen in the North-East, but direct all their attacks against the occupying Power, it is difficult to see how the

Orangemen could fail to be involved once the first shot was fired.

So intent have we been on making Partition an international issue that we have quite lost sight of a vital factor in the whole complicated jigsaw of Irish disunion.

We have lost sight of the fact that the Orangeman is an Irishman.

It is this that makes any solution based on force so futile; for when the shooting would be over, the Orangeman would still be there in the North-East. He would still have to be convinced that it would be in his interests to have a re-united Ireland—and he would be much harder to convince once he had been engaged in a war against his Southern brothers.

It is this fact of common nationality North and South which makes so ridiculous the petty "war" against the owners of Northern trawlers caught fishing a mile or two within

Twenty-Six County territorial waters.

This forgotten factor must be taken into account more fully. Why should we wait any longer before seeking to convince the ordinary Orangeman that it would be in his interest to be a citizen of a re-united Ireland? We cannot do this successfully until we make some attempt to understand the mentality of the average Orangeman, until we encourage discussion with him, learn what are his prejudices and how best to dispel them.

There is need for a more imaginative approach to the task of removing the Border, and the most fundamental link in that approach is a realization that, however soon the physical Border is removed, there will still remain the need to break down prejudices and to create a proper national outlook North as well as South.—
THE IRISH CATHOLIC, Dublin, Ireland, Jan. 5, 1950.



Flight From God

"Most people do not realize the real source of their terror. The fact is, however, that if you descend into the depths of your own spirit, of your own metaphysical actuality, and arrive somewhere near the center of what you *are*, you are confronted with the inescapable truth that, at the very roots of your existence, you are in constant and immediate and inescapable contact with the infinite power of God, Who is Pure Actuality and Whose creative and personal will keeps you, every moment, in existence. And this is the one thought that most men seem to be so anxious to avoid."—*Thomas Merton in the DUBLIN REVIEW, Winter, 1949.*

Documentation

To Catholic Doctors

POPE PIUS XII

An address by His Holiness to the Fourth International Convention of Catholic Doctors, Castelgandolfo, September 29, 1949.

DEAR sons and daughters, your presence here around us has a deep significance which causes us great joy. First is the fact that thirty different nations are here represented even though the moats separating the nations, created in the pre-war, post-war, as well as the war years, have not yet, and by far, been filled in. Then there is the fact that you come to tell us of the elevated thoughts that have guided your exchange of views in the sphere of medicine, and the fact that in this sphere you exercise more than a simple profession, but a real and an excellent ministry of charity.

All this most naturally assures you a very paternal reception by us. You expect of us, with our blessing, some advice with regard to your duties, and We shall be pleased to give you some brief reflections on the obligations imposed upon you by the progress that medicine has made, by the beauty and the grandeur of its practice and by its relation with natural and Christian morality.

For many centuries, and especially during our own age, the progress of medicine is obvious. It is a progress certainly complex and embracing the most varied branches of theory and practice: progress in the study of the body and the organism, in all the phy-

sical, chemical and natural sciences; in the knowledge of medicines, their properties and their use; progress in applying to the art of healing not only the science of physiology but also of psychology; of the mutual actions and reactions of physics, and of morality.

Anxious not to disregard any benefits of this progress, the medical doctor is continually on the watch for all the means of curing or, at least, of relieving the ills and the sufferings of men. The surgeon seeks to render less painful the operations that are required; the gynecologist does his best to reduce the pains of childbirth, without however endangering the health of the mother or the child and without risking a change in the feelings of motherly tenderness for the new-born child.

If the simple zeal for humanity, the natural love for one's fellowmen spurs and guides every conscientious medical doctor in his research, what is there that the Christian doctor will not do when, moved by Divine charity, he dedicates himself, without sparing either his efforts or himself, for the good of those whom he rightly regards in faith as his brethren? He certainly rejoices wholeheartedly in the immense progress already made, and the results already obtained by his predecessors and con-

tinued today by his colleagues, with whom he joins to continue a magnificent tradition. He is justly proud of making his own contribution.

Never, however, does he consider himself satisfied; he is always looking to the future, to new distances to cover, to new advances to be made. He works enthusiastically both as a medical doctor, wholly dedicated to obtain alleviation for humanity and each individual, and as a scientist whom consequent discoveries give a taste of the joy of learning. He is as a believer and a Christian who, in the splendors he discovers in the new horizons that open before him, sees the greatness and the power of the Creator, the inexhaustible goodness of the Father, who, after having given the living organism so many resources for its development, its defense and in most cases for its spontaneous healing, leads him again to find in nature, inert or living, mineral, vegetable or animal, the remedies for bodily ills.

The medical doctor would not be corresponding fully to the ideal of his vocation if—while profiting from the most recent advances of the medical science and art—he used as a practitioner merely his intelligence and his ability, and if he did not also make use (and We were about to say, above all) of his heart as a man, and of his loving tenderness as a Christian.

BODY AND SPIRIT

He is not working with "*anima vili*," with the lower nature alone; his ministrations are to bodies but to bodies animated with immortal and spiritual souls. By virtue of a mysterious but indissoluble bond between the physical and the moral, he acts efficaciously on the body only when, at the same time, he is acting on the spirit.

Whether he be dealing with the body

or the human being in its entirety, the Christian doctor will always have to beware of the fascination of science and the temptation of using his knowledge and his art for ends other than the care of the patients entrusted to him.

We thank God, however, that he will never have to defend himself against another temptation—and it is a criminal temptation—that of making the gifts hidden by God in the heart of nature to serve base interests, inadmissible passions and inhuman outrage.

Alas, We need not seek far, or go back far, to find concrete examples of these hateful abuses. For example, the disintegration of the atom and the production of atomic energy is one thing; but it is a different thing to use it for destruction beyond all control. The magnificent progress of the most modern techniques in aviation is one thing; but the wide employment of squadrons of bombers, without the possibility of limiting their action to military and strategic objectives, is quite another. It is one thing to engage in respectful investigation revealing the beauty of God in the mirror of His works, and His power in the force of nature; but it is quite another thing to deify that nature and its material forces through the denial of their Author.

What, on the contrary, does the medical doctor worthy of his vocation do? He dominates these same forces, these natural properties, in order to obtain from them healing, health and vigor, and often, what is even more precious, prevention of illness and preservation from infection and epidemics. In his hands the formidable power of radioactivity is harnessed and controlled for the cure of diseases resisting all other treatment. The properties of poisons, even the most virulent, serve for the preparation of the most efficacious

medicines. Even the germs of infection are employed in all manner of ways in serotherapy and in vaccination.

Natural and Christian morality maintains, finally, everywhere its imprescriptible rights and it is from these, and not from any considerations of feelings or of materialistic and naturalistic philanthropy that the essential principles of medical deontology (the science of duty or moral obligation) are derived: such as the dignity of the human body, the pre-eminence of the soul over the body, the brotherhood of all men, the sovereign domain of God over life and destiny.

CATHOLIC MORAL DOCTRINE

We have already had many occasions to speak on a good number of special points regarding medical morality, but now we have here a question of the first order which, with no less urgency than other questions, requires the light of Catholic moral doctrine: it is artificial insemination. We could not allow this present opportunity to pass without indicating briefly the general outline of the moral judgment on this subject.

1. The practice of artificial insemination, when it is applied to man, cannot be considered exclusively, nor even principally, from the biological and medical viewpoint while leaving aside the viewpoint of morality and law.

2. Artificial insemination outside marriage is to be condemned purely and simply as immoral.

In fact, the natural law and the positive Divine Law are such that the procreation of a new life may only be the fruit of marriage. Marriage alone safeguards the dignity of husband and wife—and in the present case, particularly of the wife—and their personal well-being. Marriage alone provides for the

good and the education of the offspring.

Consequently, there is no possibility of any divergence of opinion among Catholics regarding the condemnation of artificial insemination outside marriage. A child conceived in such conditions is, by that fact alone, illegitimate.

3. Artificial insemination in marriage with the use of an active element from a third person is equally immoral and as such is to be rejected summarily. Only the marriage partners have mutual rights over their bodies for the procreation of a new life and these are exclusive, non-transferable and inalienable rights. So it must be, out of consideration for the child.

By virtue of this same bond, nature imposes on whoever gives life to a small creature the task of its preservation and education. Between the marriage partners, however, and a child which is the fruit of the active element of a third person—even though the husband consents—there is no bond of origin, no moral or juridical bond of conjugal procreation.

4. With regard to the lawfulness of artificial insemination in marriage, it is sufficient for us at present to recall the principles of the natural law: the simple fact that the desired result is obtained by this means does not justify the employment of the method itself; nor does the desire of the marriage partners—most legitimate in itself—to have a child, suffice to prove the lawfulness of a recourse to artificial insemination for the fulfilment of that desire.

It would be false to believe that the possibility of a recourse to that method would render a marriage valid between two persons who are unfitted to contract a marriage because of the impediment of impotency.

Moreover, it is superfluous to indicate that the active element can never

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be lawfully attained by acts that are contrary to nature.

Although one may not exclude "a priori" the use of new methods simply on the grounds that they are new, nevertheless, artificial insemination is something which must not just be regarded with extreme reserve, but must be utterly rejected. With such a pronouncement, one does not necessarily proscribe the use of certain artificial methods intended simply either to facilitate the natural act or to enable the natural act, effected in a normal manner, to attain its end.

Let it not be forgotten that the procreation alone of a new life, according to the will and the plan of the Creator, carries with it an amazing degree of perfection and the realization of intended aims. It is at the same time in

conformity with the corporal and spiritual nature and the dignity of the marriage partners and with the normal and happy development of the child.

Your sincerely religious spirit and your present conduct, dear sons and daughters, are the pledge of your un-failing fidelity to all your duties as Catholic medical doctors and a pledge also of your desire to contribute by your example and your influence toward encouraging among your colleagues and your pupils, among your patients and their families, the principles with which you yourselves are inspired. It is with this confidence that We give with all the effusion of our paternal heart to you, to all those you represent here, to your families and to all those who are dear to you our Apostolic Blessing.

To the Church in Poland

POPE PIUS XII

A letter of His Holiness Pope Pius XII addressed to His Eminence Adam Cardinal Sapieha, Archbishop of Cracow, the other members of the Polish Hierarchy, the clergy and the faithful on the tenth anniversary of Poland's invasion by Hitler's armies. The letter was dated September 1, 1949.

WITH the completion of ten years since the beginning of the terrible war, of which the noble Polish people was the first victim, We do not wish to leave you, Beloved Son and Venerable Brethren, and through you the clergy and all the faithful, without a word from us to express our feelings of paternal affection.

Our Pontificate began, as you will well remember, in an atmosphere of threats to the tranquillity of Europe and of the world. Mindful of the mission of peace characteristic of the Vicar of Christ upon earth and following in

the footsteps of our predecessor of holy memory, We did not delay in engaging in an intense activity to try to spare the world the horrors of an armed conflict. With our first message We desired to send to all peoples an invitation to peace, and after this, our voice continued to be raised with insistence to exhort them to a concord of spirit in justice and in charity and to invoke this spirit from Heaven on the world in ardent prayer.

This was not all; to public manifestations We did not fail to add vigilance and indefatigable diplomatic action in

support of the cause of peace. During the early days of May, 1939, as soon the danger of an approaching conflict seemed more imminent, We took diplomatic steps with the principal powers concerned and this was to prevent as far as in us lay that serious menace. Nevertheless, the international tension became more acute until it reached in the month of August of that same year the culminating point in which one could see the approaching opening of the conflict.

We then addressed to all peoples, and especially to those who carried the responsibility of the decision on which depended war or peace, a radio message on August 24, 1939, in which We said: "The danger is imminent but there is yet time. Nothing is lost with peace; all may be lost with war." Then, on August 31, which was the actual eve of the opening of hostilities, We arranged that our Cardinal Secretary of State should consign to the diplomatic representatives accredited to us, of Germany, Poland, Great Britain, France and Italy, a final urgent appeal, while in the days immediately preceding this, through our Apostolic Nuncios at Warsaw and Berlin, We had tried to do everything in our power in order to find some agreement between the two governments.

We could therefore with full right say in our first Encyclical Letter of October 20, 1939: "We left nothing undone in the form suggested to us by our Apostolic Office, and by the means at our disposal, to prevent recourse to arms and to keep open the way to an understanding honorable to both parties." Unfortunately, our supplicating voice was not heeded and there broke out the terrible conflict. Your homeland, Beloved Son and Venerable Brethren, had to pass through a very

tragic hour, stricken and invaded from the west and from the east.

We, in a memorable audience granted on September 30, 1939, to your fellow countrymen, either resident in this city or refugees from their homeland, following the dictates of our heart, expressed our participation in your sorrow and our special affection for you, children particularly stricken by misfortune, and We implored for you from the Divine Master, Who wept at the tomb of His friend Lazarus and again over the foreseen ruins of His homeland, grace and heavenly rewards.

Who can describe the sufferings of the Polish people during the long years of servitude, the immense void left by several millions who perished either through war or in concentration camps, the great number of mutilated and suffering, the enormous destruction of the national patrimony together with the iniquitous decrees issued by the invaders, violating even the sacred rights of God and of souls.

DEVASTATED COUNTRY

We still see the fearful vision of your devastated country, the multitudes of refugees and those wandering without homes and without country. There sound yet in our ears the sighs of the mothers and wives weeping over their fallen ones, the desolate lament of the aged and the sick deprived often of all assistance, the wailing of the young orphans deprived of all sustenance, the cries of the wounded and the death rattle of the dying.

The love of a father is interested in all that concerns his children. Could it be possible that We were not moved by what was so cruelly happening to them? To our compassion and our fervent prayer to the Almighty that He might deign to shorten those mournful

days of trial, We added continual affectionate activity, searching for every possible occasion to help you and to alleviate so many evils. To you, Beloved Son and Venerable Brethren, We gave extraordinary faculties so that you might be better able to come to the assistance of the spiritual needs of the faithful. We helped, as far as We could with the means at our disposal, your brother refugees, and the soldiers held as prisoners beyond the frontiers of their homeland. We left nothing undone, although often in vain, to ameliorate even in your occupied homeland our religious situation and your conditions of life. Frequently, We solemnly protested the offenses against God, the Church and souls, and the violation of sacred human rights, and spoke out in the defense of the helpless innocents.

DEATH OF BISHOPS AND PRIESTS

Paralleling our efforts, but unknown to the Polish people because of the scheming of the invaders, there was the ready activity of the clergy. The priests, under the illuminated guidance of their pastors, knew how to keep alive in the hearts of the faithful the light of hope in Divine Providence, while awaiting and preparing for the brilliant destinies of the homeland after such tempestuous disasters. Thousands of your priests, led by your Bishops, have died for the cause of God and your country. Many other Bishops were removed from their sees, and the many priests who suffered persecution, misery and imprisonment are eloquent testimony of their love of country. It is largely due to their efforts and with the help of God that the Polish people, in that hour of tragedy, preserved tenaciously the Catholic Faith and did not forget the glories of its national history.

The war has been over now for four years, but the Church in Poland has not yet regained those liberties to which she has always and everywhere the undeniable right; and so much more so should these liberties be recognized when she has been engaged, for the common good, in such hard struggles and has suffered such bitter tribulation. Alas, the hour of trial has not yet passed. Catholic associations have been virtually dissolved, religious teaching in the schools is obstructed, many difficulties are placed in the way of free development of institutions in the care of nuns or the clergy; the calumnious accusations made by the press against the Catholic religion, Ourselves, the Bishops and the clergy, the suffocating censorship imposed on every Catholic publication; the denial of religious assistance to prisoners and the sick; the lack of free and secure communications between the Holy See, the Bishops, the clergy and the faithful—all this makes every day more difficult the external practice of Catholic life among you.

Fear not, Beloved Son and Venerable Brethren, for, just as in the past so too in the future, "the way of the wicked shall perish" (Ps. I.6) and "He will disappoint the deceitful practices of the wicked" (Prov. X.3). When one recalls the phases of the history of Poland, interchanging from the tragic to the glorious, one sees that rivers of tears and torrents of blood have flowed over your land; there have been abysses of pain but also resplendent heights of victory illuminated by the splendors of religion, literature and art. There is one thing only which your ancient history has not recorded—a Poland unfaithful or separated from Christ and His Church. This is your just pride; this is the emblem of your nobility; acting with resolution, suffering with courage, hoping with unflin-

ing faith in the attainment of the goal.

The powerful intercession of the Blessed Virgin, invoked under the beautiful title of "Queen of Poland," and of your great and numerous Saints, together with the supreme sacrifice of your fallen, will obtain, in the end, for your noble country, particularly be-

loved by us, Christian peace and temporal prosperity. And while We implore with ardent prayers such gifts from on high, with all the effusion of our heart, We impart to you, Beloved Son and Venerable Brethren, to the reverend clergy and to all the faithful the Apostolic Blessing.



Work for Laymen

"It must be every day more and more clear that the work of the priest can directly touch only a small fraction of the people within the Church. For those without the Church, the influence of the clergy is, from the point of view of personal contact, almost infinitesimal. As matters stand the priest just does not meet the vast majority of non-Catholics, and among those with whom he does make contact, more often than not religion is not a matter of discussion. This places a very real responsibility on the Catholic people who have occasion to meet those not of their faith not merely in a business but in a social and community way. For these it is vital to know just what they believe and to know why."

—THE PILOT, Feb. 11, 1950.



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